N. J., F. D. 28376–28525 Issued September 1938

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28376–28525

[Approved by the Acting Secretary of Agriculture, Washington, D. C., June 13, 1938]

28376. Adulteration of apples. U. S. v. 75 Boxes of Apples. Default decree of condemnation and destruction. (F. & D. No. 41509. Sample no. 45319–C.)

This product was contaminated with arsenic and lead.

On December 30, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 75 boxes of apples at Crescent City, Calif., alleging that the article had been shipped in interstate commerce on or about December 14, 1937, by George Seeback from Grants Pass, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Rio Lado Ranch R #2 Grants Pass, Oregon."

It was alleged to be adulterated in that it contained added poisonous or deleterious substances, arsenic and lead, which might have rendered it injurious to health.

On January 19, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28377. Adulteration of apples. U. S. v. 137 Boxes of Apples. Consent decree of condemnation. Product released under bond. (F. & D. No. 41361. Sample No. 51869–C.)

This product was contaminated with arsenic and lead.

On December 15, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 137 boxes of apples at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about December 9, 1937, by the United Brokers Co., from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On December 17, 1937, Jacobs, Malcolm & Burtt, San Francisco, Calif., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the court ordered the product released under bond, conditioned that it be made to comply with the Federal Food and Drugs Act under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28378. Adulteration of apples. U. S. v. 140 Boxes of Apples. Default decree of condemnation and destruction. (F. & D. No. 41360. Sample No. 45296–C.)

This product was contaminated with arsenic and lead.

On December 17, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 140 boxes of apples at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about December 1, 1937, by the Oroville Canning Co. from Oroville, Wash., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious substances, arsenic and lead, which might have rendered it injurious to health.

On January 6, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28379. Adulteration of tomato catsup. U. S. v. 197 Cases of Spencer Brand Tomato Catsup. Default decree of condemnation and destruction. (F. & D. No. 40414. Sample No. 47421–C.)

This product contained filth resulting from worm infestation and excessive mold.

On October 5, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 197 cases of Spencer brand tomato catsup at Fort Benjamin Harrison, Ind., alleging that the article had been shipped in interstate commerce on or about September 3, 1937, by W. M. Spencer & Sons Co. from Cincinnati, Ohio, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Spencer Brand Tomato Catsup."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On December 11, 1937, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28380. Adulteration of apples. U. S. v. 158 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40972. Sample No. 59538–C.)

This product was contaminated with arsenic and lead.

On November 3, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 158 bushels of apples at South Bend, Ind., alleging that the article had been shipped in interstate commerce on or about October 25, 1937, from Paw Paw, Mich., by the Florida Fruit Market to itself at South Bend, Ind., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On February 16, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28381. Adulteration of apples. U. S. v. 35 Boxes of Apples. Default decree of condemnation and destruction. (F. & D. No. 41518. Sample No. 361–D.)

This product was contaminated with lead and arsenic.

On January 7, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 35 boxes of apples at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 30, 1937, by S. Mukai from Provo, Utah, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it injurious to health.

On January 31, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28382. Adulteration of apples. U. S. v. 542 Boxes of Apples. Product released under bond for reconditioning. (F. & D. No. 41244. Sample Nos. 52403–C, 52316–C, 52317–C.)

A portion of this product was contaminated with arsenic and lead, and the remainder was contaminated with lead.

On December 10, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 542 boxes of apples at Los Angeles, Calif., alleging that the article had been shipped on or about October 18, 1937, by the Associated Growers of British Columbia, from Kelowna, British Columbia, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed and Shipped by Kelowna Growers' Exchange, Kelowna British Columbia, Canada Selling Agents Associated Growers of British Columbia."

The article was alleged to be adulterated in that a portion of it contained added poisonous or deleterious ingredients, arsenic and lead, and the remaining portion contained lead, which might have rendered it injurious to health.

On December 22, 1937, the B. C. Fruit Board, having appeared as claimant, the apples were ordered released under bond for reconditioning under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28393. Adulteration of apples. U. S. v. 131 Bushels and 308 Bushels of Apples. Product ordered released under bond to be reconditioned. (F. & D. No. 41362. Sample Nos. 9688–C, 9689–C.)

This product was contaminated with lead.

On December 21, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 815 boxes of apples at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about December 14, 1937, by H. B. Long from Twin Falls, Idaho, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed for H. B. Long Twin Falls, Idaho."

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On January 13, 1938, L. Kasviner Fruit Co., Inc., Los Angeles, Calif., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for reconditioning under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28384. Adulteration of apples. U. S. v. 15 Crates of Apples. Default decree of condemnation and destruction. (F. & D. No. 41352. Sample No. 67825–C.)

This product was contaminated with arsenic and lead.

On November 27, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 crates of apples at Kokomo, Ind., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, from Buchanan, Mich., by William Boruff to himself at Kokomo, Ind., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it harmful to health.

On January 28, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28385. Adulteration of apples. U. S. v. 1,490 Bushels of Apples. Consent decree of condemnation. Product released under bond to be reconditioned. (F. & D. No. 41241. Sample No. 47335–C.)

This product was contaminated with arsenic and lead.

On November 5, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,490 bushels of apples at Vincennes, Ind., alleging that the article had been shipped in interstate commerce on or about October 26, 1937, by the Sherrell Orchard from Mount Carmel, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Sherrell Orchard R. 2 Mr. Carmel Ill."

It was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it harmful to health.

On November 29, 1937, the Citizens Trust Co., Vincennes, Ind., claimant, having admitted the allegations of the libel, the court ordered the product released under bond for the purpose of reconditioning so as to comply with the law, subject to the inspection and approval of this Department prior to any right of sale.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28386. Adulteration of apples. U. S. v. 93 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40940. Sample No. 59564–C.)

This product was contaminated with arsenic and lead.

On October 30, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 93 bushels of apples at Indianapolis, Ind., alleging that the article had been shipped in interstate commerce on or about October 28, 1937, from Watervliet, Mich., by Harry Overtree to himself at Indianapolis, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Tom Daly Watervliet, Mich."

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 10, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28387. Adulteration of apples. U. S. v. 18 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41351. Sample No. 67702–C.)

This product was contaminated with arsenic and lead.

On November 12, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 bushels of apples at East Chicago, Ind., alleging that the article had been shipped in interstate commerce on or about November 7, 1937, from Benton Harbor, Mich., by George Kotsiakos to himself at East Chicago, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "E. Kraklau R–3 Watervliet, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 16, 1937, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28388. Adulteration of apples. U. S. v. 10 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41240. Sample No. 50415–C.)

This product was contaminated with arsenic and lead.

On November 24, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 bushels of apples at Hammond, Ind., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, from Bangor, Mich., by Paul Pewowar to himself at Hammond, Ind., and charging adulteration in violation of the Food and Drugs Act.

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 12, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28389. Adulteration of apples. U. S. v. 65 Bushels of Apples. Consent decree of condemnation, with provision for release on condition that deleterious ingredients be removed. (F. & D. No. 41365. Sample No. 59995–C.)

This product was contaminated with arsenic and lead.

On November 17, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 65 bushels of apples at Indiana Harbor, Ind., alleging that the article, consigned to the Indiana Harbor Open Air Market, had been shipped in interstate commerce on or about November 2, 1937, by Nathan Tobias from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Wallace Krieger R–1, Coloma, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 16, 1937, Nathan Tobias, proprietor of the Indiana Harbor Open Air Market, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered. The court, however, ordered that in lieu of destruction, the claimant might remove the deleterious ingredients and obtain release of the apples after examination by and approval of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28390. Adulteration of apples. U. S. v. 66 Bushels of Apples. Consent decree of condemnation, with provision for release on condition that deleterious ingredients be removed. (F. & D. No. 40941. Sample No. 59369–C.)

This product was contaminated with arsenic and lead.

On October 23, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 66 bushels of apples at Lafayette, Ind., alleging that the article had been shipped in interstate commerce on or about October 17, 1937, from Benton Harbor, Mich., by Starck & Mars to themselves at Lafayette, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Grown and Packed by E. Koroch Benton Harbor, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 16, 1937, Starck & Mars, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered. The court, however, ordered that in lieu of destruction, the claimant might remove the deleterious ingredients and obtain release of the apples after examination by and approval of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28391. Adulteration of apples. U. S. v. 25 Bushels of Apples. Decree of condemnation, with provision for release on condition that deleterious ingredients be removed. (F. & D. No. 40879. Sample No. 59478–C.)

This product was contaminated with arsenic and lead.

On October 8, 1937, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of apples at Hobart, Ind., alleging that the article had been shipped in interstate commerce on or about September 29, 1937, from Benton Harbor, Mich., by Mike Hovanecz to himself at Hobart, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "F. C. Holder R. 1 Benton Harbor, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 13, 1937, Mike Hovanecz, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered. The court, however, ordered that in lieu of destruction, the claimant might remove the deleterious ingredients and obtain release of the apples after examination by and approval of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28392. Misbranding of canned peas. U. S. v. 500 Cases of Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40056. Sample No. 20953–C.)

This product fell below the standard for canned peas established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On August 11, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 cases of canned peas at Fall River, Mass., alleging that the article had been shipped in interstate commerce on or about July 16, 1937, by A. W. Sisk & Son from Federalsburg, Md., and charging misbranding in violation of the Food and Drugs Act. The article

was labeled in part: (Can) "Wright's Early June Peas Packed by John N. Wright, Jr., Federalsburg, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On October 18, 1937, Albert W. Sisk & Son, Preston, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be properly relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28393. Adulteration of apples. U. S. v. 131 Bushels and 308 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. Nos. 41797, 41798. Sample Nos. 1638–D, 10481–D to 10484–D, incl.)

This product was contaminated with lead.

On February 11, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 439 bushels of apples at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about February 8, 9, and 10, 1938, by James Bill from Glassboro, N. J., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it harmful to health.

On February 28, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28394. Adulteration of apples and pears. U. S. v. 75 Bushels of Pears and 27 Bushels of Apples. Default decrees of condemnation and destruction. (F. & D. Nos. 40884, 40936. Sample Nos. 49775–C, 49892–C.)

These products were contaminated with arsenic and lead.

On August 27 and October 6, 1937, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 75 bushels of pears and 27 bushels of apples at Chicago, Ill., alleging that the articles had been shipped in interstate commerce on or about August 17 and September 26, 1937, by Bangor Fruit Growers Exchange from Bangor, Mich., and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Bangor Fruit Growers Exchange Bangor Michigan."

They were alleged to be adulterated in that they contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered them harmful to health.

On October 15 and November 5, 1937, no claimant having appeared, the products were condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28395. Adulteration of apples. U. S. v. 44 Bushels of Apples. Decree of condemnation. Product released under bond to be washed. (F. & D. No. 41149. Sample No. 67822–C.)

This product was contaminated with arsenic and lead.

On or about November 24, 1937, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 44 bushels of apples at Champaign, Ill., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, from Bangor, Mich., by Charles Cross to himself at Champaign, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, in harmful quantities.

On December 15, 1937, Charles Cross, having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be washed and cleansed to remove all harmful ingredients.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28396. Adulteration of crab apples. U. S. v. 159 Bushels of Crab Apples. Consent decree of condemnation and destruction. (F. & D. No. 41243. Sample No. 49781–C.)

This product was contaminated with arsenic and lead.

On October 6, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 159 bushels of crab apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 29 and 30, 1937, by the De Willoughby Fruit Farm from Berlamont, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "From de Willoughby Fruit Farm, Berlamont, Michigan."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 11, 1937, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28397. Adulteration of apples. U. S. v. 31 Bushels of Apples. Consent decree of condemnation and destruction. (F. & D. No. 40978. Sample Nos. 67610–C, 67615–C.)

This product was contaminated with arsenic and lead.

On November 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 11, 24, and 27 and November 4, 1937, by L. R. Boyer from Watervliet, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 23, 1937, the shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28398. Adulteration of apples. U. S. v. 119 Bushels of Apples. Consent decree of condemnation and destruction. (F. & D. No. 40981. Sample No. 67736–C.)

This product was contaminated with arsenic and lead.

On November 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 119 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 10, 1937, from Berrien Springs, Mich., by Joseph Fracchini to himself at Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 29, 1937, the shipper having consented to the entry of a decree, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28399. Adulteration of apples. U. S. v. 83 Bushels of Apples. Consent decree of condemnation and destruction. (F. & D. No. 41019. Sample Nos. 67815–C, 67816–C.)

This product was contaminated with arsenic and lead.

On November 20, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 83 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 17, 1937, from Benton Harbor, Mich., by Tom Mucia to himself at Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 22, 1937, the claimant having consented to the entry of a decree of condemnation, the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28400. Adulteration of apples. U. S. v. Lots of Apples (and one other seizure of apples.) Decrees of forfeiture. Product released under bond. (F. & D. Nos. 40933, 41237. Sample Nos. 45896–C, 45897–C, 49469–C, 49470–C.)

This product was contaminated with arsenic and lead.

On October 20 and November 29, 1937, the United States attorney for the Western District of Wisconsin, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 534 bushels of apples at Ashland, Wis., alleging that the article had been shipped in interstate commerce on or about October 15 and 18, 1937, by S. F. Weksler from Frankfort, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously: "Arlie L. Hopkins Bear Lake Michigan Packed by George E. Iverson Arcadia, Michigan"; "Graded and Packed by Indianhills Orchards, Honor, Michigan"; "Consigned from Clagetts Orchard, Empire, Michigan."

The article was alleged to be adulterated in that it cotained added poisonous and deleterious ingredients, lead and arsenic, which might have rendered it injurious to health.

On November 29 and December 17, 1937, Cohodas & Snyder Co., Ashland, Wis., claimant, having admitted the allegations of the libels, judgments of forfeiture were entered and it was ordered that the product be released under bond to be reconditioned by removal of the deleterious substances.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28401. Adulteration and misbranding of lemon juice. U. S. v. 54 Cases of Lemon Juice. Consent decree of condemnation. Order of destruction. (F. & D. No. 40744. Sample No. 60642–C.)

This article was diluted lemon juice, but was represented to be pure lemon juice.

On November 18, 1937, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 cases of lemon juice at Denver, Colo., consigned by the Tru-Fruit Juice Co., alleging that the article had been shipped in interstate commerce on or about November 20, 1936, from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tru-Lem Made from Pure Lemon Juice Fruit Acid Added * * * Tru-Fruit Juice Co. Chicago, Ill."

The article was alleged to be adulterated in that diluted lemon juice had been substituted for pure lemon juice, which it purported to be.

It was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser as applied to diluted lemon juice: "Tru-Lem * * * Made from Pure Lemon Juice * * * Tru-Fruit Juice Co. Use one ounce of Tru-Lem in place of the juice of one lemon. Tru-Lem may be used for every household purpose without the inconvenience of squeezing lemons."

On December 10, 1937, the Tru-Fruit Juice Co. having consented to the entry of a decree, judgment of condemnation was entered and the property was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28402. Adulteration of pecans. U. S. v. 23 Bags and 39 Bags of Pecans. Default decree of condemnation and destruction. (F. & D. Nos. 40836, 40837. Sample Nos. 9516–C, 9517–C.)

This article was moldy, rancid, and decomposed.

On November 16, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 62 bags of pecans at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 16 and May 8, 1937, by the Consolidated Pecan Sales Co. from Albany, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Consolidated Pecan Sales Co., Albany, Georgia."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 7, 1937, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28403. Adulteration and misbranding of vanilla extract. U. S. v. 474 Bottles of Vanilla Extract. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41010. Sample No. 36775–C.)

This product was a mixture of alcohol, water, vanilla, and caramel color, containing less vanilla oleoresin and a lower lead number than is found in vanilla extract.

On December 4, 1937, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 474 bottles of vanilla extract at Louisville, Ky., in possession of Vertrees Manufacturing Co., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The shipment had been rejected and returned to the manufacturer, the Vertrees Manufacturing Co. The article was labeled in part: "Pure Extract Vanilla Vertrees Mfg. Co. Louisville, Ky."

It was alleged to be adulterated in that it was colored in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the name "Pure Extract Vanilla" was false and misleading and tended to deceive and mislead the purchaser as applied to an article of food which was deficient in vanilla extractive matter.

On December 29, 1937, the Vertrees Manufacturing Co., Louisville, Ky., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled "Imitation Vanilla."

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28404. Adulteration of mixed nuts. U. S. v. 54 Boxes of Mixed Nuts. Decree of condemnation. Product ordered released under bond for reconditioning. (F. & D. No. 41103. Sample No. 57915–C.)

These mixed nuts contained filberts which were moldy and decomposed.

On December 14, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 boxes of mixed nuts at Baltimore, Md., alleging that the article had been shipped in interstate commerce, on or about November 4, 1937, by the Graham Co. from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pratt-Dale Fancy Mixed Nuts."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 20, 1937, H. B. Coulson, trading as Coulson & Co., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond for reconditioning so as to conform to the requirements of the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28405. Adulteration of rice. U. S. v. 75 Bags, et al., of Rice. Default decrees of condemnation and destruction. (F. & D. Nos. 40640, 40642, 40842. Sample Nos. 48420–C, 48421–C, 48422–C, 48428–C, 48522–C, 48523–C, 48538–C, 48539–C, 48541–C.)

This article was infested with insects.

On November 1, 2, and 22, 1937, the United States attorneys for the District of Maryland and the District of Columbia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 352 bags of rice at Baltimore, Md., and 264 bags of rice at Washington, D. C., alleging that the article had been shipped in interstate commerce in part on or about March 20, March 23, and June 8, 1937, by the Standard Rice Co., Inc., from Houston, Tex., into the District of Columbia, and in part on or about October 22 and October 25, 1937, from Washington, D. C., into the State of Maryland by H. P. Bleser, and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled in part: "Standard Rice Co. Inc. Houston Tex."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 6, 8, and 14, 1937, no claimant having appeared, judgments of condemnation and forfeiture, with orders of destruction, were entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28406. Adulteration of dried codfish. U. S. v. 24 Bundles of Dried Codfish. Consent decree of condemnation. Product released under bond. (F. & D. No. 41052. Sample No. 63455–C.)

This product was in part decomposed and putrid.

On December 9, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 bundles of dried codfish at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about October 3, 1937, by Martin Gilbert from Squaw Harbor, Alaska, and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "From Mr. Martin Gilbert."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid animal substance.

On December 13, 1937, A. Bunzen, Seattle, Wash., having appeared as claimant and consented, judgment of condemnation and forfeiture was entered and it was ordered that the product be released to claimant under bond conditioned that it should not be disposed of in violation of the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28407. Adulteration and misbranding of lemon extract. U. S. v. 22 Cartons of Alleged Lemon Extract. Default decree of condemnation and destruction. (F. & D. No. 40959. Sample No. 57145–C.)

This product was a hydroalcoholic solution of a substance other than lemon oil that was represented to be pure lemon extract, and the quantity of contents was not declared in terms of liquid measure.

On November 30, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cartons of alleged lemon extract at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 26, 1937, from Fort Sam Houston, San Antonio, Tex., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was originally shipped by the Plantation Extract Corporation from New York, N. Y., to Fort Sam Houston and was there rejected by the Army post. The article was labeled in part: (Bottle) "8 Oz. Pure Extract Lemon Tropical Extract Corp. New York"; (carton) "Contents 8 Ozs. Pure Extract Lemon Plantation Extract Corp. New York, N. Y."

The article was alleged to be adulterated in that a hydroalcoholic solution of a substance other than lemon oil had been substituted wholly or in part for "Pure Extract Lemon," which the article purported to be.

Misbranding was alleged in that the statement "Pure Extract Lemon" was false and misleading and tended to deceive and mislead the purchaser; and in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement of contents was ambiguous.

On December 17, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28408. Adulteration and misbranding of butter. U. S. v. 22 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 41367. Sample No. 63487–C.)

The product was deficient in milk fat.

On December 27, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cubes of butter at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about December 15, 1937 by Community Creamery from Missouli, Mont., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

It was alleged to be misbranded in that it was represented as butter, which representation was false and misleading, since it contained less than 80 percent of milk fat.

On December 28, 1937, Fred Madsen, trading as the Community Creamery, a corporation, appearing as claimant and consenting, judgment of condemnation

and forfeiture was entered. The property was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28409. Misbranding of Wood's Golden Syrup. U. S. v. 26 Cases of Wood's Golden Syrup. Consent decree entered. Product ordered released under bond to be relabeled. (F. & D. No. 40018. Sample No. 42167–C.)

The net weight of this product was found to be less than that declared, and its labeling also contained false and fraudulent curative and therapeutic claims.

On July 30, 1937, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 cases of Wood's Golden Syrup at Woodstock, Va., alleging that the article had been shipped in interstate commerce on or about May 7, 1937, by Wood's Mince Meat Co. from Baltimore, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Wood's Mince Meat Co., Baltimore, Md."

It was alleged to be misbranded in that the statement on the label, "Net Weight 2 lbs. 6 Oz.," was false and misleading and tended to deceive and mislead the purchaser as applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct. It was alleged to be misbranded further in that the statements, "Recommended to aid digestion. Syrup is recommended by medical science as an energy for the brain and a tissue builder," were false and fraudulent.

On August 20, 1937, Wood's Mince Meat Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment was entered ordering the product released under bond to be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28410. Adulteration of tomato puree. U. S. v. 160 Cases of Tomato Puree. Consent decree of condemnation and destruction. (F. & D. No. 41062. Sample No. 49550–C.)

This product contained excessive mold.

On December 11, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 160 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 19, 1937, by the Butterfield Canning Co. from Muncie, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sweetheart Tomato Puree Packed For Franklin MacVeagh and Co. Chicago, Illinois."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 28, 1937, the claimant having consented to the entry of a decree, judgment of condemnation, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28411. Misbranding of canned peas. U. S. v. 1,000 Cases of Canned Peas. Product released under bond for relabeling. (F. & D. No. 41036. Sample No. 58008–C.)

This product was substandard because the peas were not immature and it was not labeled to indicate that it was substandard.

On or about December 9, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cases of canned peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about September 25, 1937, from Mount Airy, Md., by Burton Proctor & Son, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "USB4 Brand Early June Peas * * * Burton Proctor & Son Distributors Preston, Md., U. S. A."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture

since the peas were not immature, and its package label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 16, 1937, Mount Airy Canning Co., Preston, Md., having petitioned the release of the product, it was ordered released under bond, conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28412. Misbranding of canned peas. U. S. v. 420 Cases of Canned Peas. Product released under bond for relabeling. (F. & D. No. 41007. Sample No. 58009–C.)

This product was substandard because the peas were not immature and it was not labeled to indicate that it was substandard.

On December 7, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 420 cases of canned peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about September 14, 1937, from Hampstead, Md., by Bankert Bros., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Hampstead Brand Early June Peas Packed by Bankert Brothers Hampstead Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 10, 1937, Bankert Bros., claimants, having petitioned the release of the product, it was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28413. Adulteration of tomato paste. U. S. v. 88 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 41026. Sample No. 55252–C.)

This product contained excessive mold.

On December 7, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 88 cases of tomato paste at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about April 1, 1937, from Waterbury, Conn., by William Shore, Inc., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Solé Brand * * * Tomato Paste * * * Packed By Canadaigua Juice Co. Canandaigua, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 30, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28414. Misbranding of canned cherries. U. S. v. 108 Cases of Canned Cherries. Consent decree entered. Product ordered released under bond for relabeling. (F. & D. No. 41040. Sample No. 64001–C.)

This product was substandard because it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On December 8, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 cases of canned cherries at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about July 21, August 19, and October 21, 1937, from Portland, Oreg., by the Columbia Van & Storage Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Porto Standard Fruit in Water Red Sour Pitted Cherries Packed for Mason Ehrman and Co. Main Office Portland Oregon."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since there were present cans containing more than one cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and

conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 31, 1937, the Starr Fruit Products Co., Portland, Oreg., claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28415. Misbranding of canned peas. U. S. v. 350 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40839. Sample No. 55216–C.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On November 15, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 350 cases of canned peas at Brockton, Mass., alleging that the article had been shipped in interstate commerce on or about August 14, 1937, by the Mason Canning Co. from Pocomoke City, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Sea View No. 4 Sieve Alaska Peas. The Mason Canning Co. Pocomoke City Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 27, 1937, the Mason Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28416. Adulteration of flour. U. S. v. 650 Bags of Flour. Decree of condemnation and forfeiture. Flour ordered released under bond for reconditioning for animal feed. (F. & D. No. 40580. Sample Nos. 53371–C, 53395–C.)

This article was infested with insects.

On October 25, 1937, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 650 bags of flour at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about April 29, 1937, by the Wasco Warehouse Milling Co. from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Wasco 60 Flour Wasco Ware-House Milling Company The Dalles, Oregon."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On December 1, 1937, the Indiana Flour Co., Inc., Dothan, Ala., having appeared as claimant, judgment of condemnation was entered, and the seized flour (1,150 bags) was ordered released under bond conditioned that it be disposed of for animal feed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28417. Adulteration of apples. U. S. v. 14 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40977. Sample No. 60375–C.)

This product was contaminated with arsenic and lead.

On November 9, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 7, 1937, by William Zimmerman from South Haven, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "From E. E. Bushee Rt 2 So. Haven, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 6, 1938, no claimant having appeared, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28418. Adulteration of apples. U. S. v. 26 Bushels of Apples. Consent decree of condemnation and destruction. (F. & D. No. 40979. Sample No. 67715–C.)

This product was contaminated with arsenic and lead.

On November 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, from Benton Harbor, Mich., by Frank Dremon to himself at Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "F Alton R–2 Benton Harbor, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 8, 1937, the shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28419. Misbranding of peanut butter. U. S. v. 200 Cases of Peanut Butter (and 2 other seizures of the same product). Decrees of condemnation. Product released under bond for relabeling. (F. & D. Nos. 40947, 40996, 41902. Sample Nos. 61245–C, 61247–C.)

This product was short of the declared weight.

On November 30 and December 2, 1937, and March 8, 1938, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 441 cases of peanut butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about October 14 and November 8, 1937, and January 12, 1938, from Jackson, Miss., by the Southland Peanut Products Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Southland Peanut Butter Manufactured by Southland Peanut Products Co., New Brockton, Ala. Jackson, Miss."

It was alleged to be misbranded in that the statements, "Net Wt. 16 Ozs." and "Net Wt. Eight Ozs.," borne on the labels were false and misleading and tended to deceive and mislead the purchaser as applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the said statements were incorrect.

On December 14, 1937, and April 14, 1938, Frank H. Murphree, trading as the Southland Peanut Products Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28420. Adulteration and misbranding of oysters. U. S. v. 155 Cans, 1,100 Cans, and 3,100 Cans of Oysters. Default decrees of condemnation and destruction. (F. & D. Nos. 40924, 40925, 40926. Sample Nos. 65551–C, 65554–C, 65555–C.)

This product contained added water and was also short in volume.

On November 26, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 4,355 cans of oysters at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about November 16 and 20, 1937, by J. C. Lore & Sons from Solomons, Md., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality and strength, and in that water had been substituted wholly or in part for the article.

It was alleged to be misbranded in that the statement "One Pint Net," borne on the labels, was false and misleading, and tended to deceive and mislead the purchaser when applied to an article that was short in volume; and in that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On December 15 and 18, 1937, judgments of condemnation and destruction were entered, in the case of the 155 cans by default, and in the case of the remaining two lots by consent of the consignee.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28421. Adulteration of rye chops. U. S. v. 5 Bags of Rye Chops. Default decree of condemnation and destruction. (F. & D. No. 40733. Sample No. 48549–C).

This product was infested with insects.

On November 11, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five bags of rye chops at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about June 11, 1937, by the Pillsbury Flour Mills Co. from Buffalo, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pure Rye Chops. * * * From Pillsbury Flour Mills Company * * * Minneapolis, Minn."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 17, 1937, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28422. Adulteration of oysters. U. S. v. 328 Pints of Oysters. Default decree of condemnation and order of destruction. (F. & D. No. 40858. Sample No. 46695–C.)

These oysters contained added or excessive water.

On November 17, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 328 pints of oysters at Altoona, Pa., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, by Carol Dryden & Co. from Crisfield, Md., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pride of the Chesapeake * * * Oysters Packed by Carol Dryden & Co., Crisfield, Md."

It was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality or strength; and in that water had been substituted wholly or in part for the article.

On December 15, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28423. Adulteration of prunes. U. S. v. 39 Boxes of Prunes. Default decree of condemnation and destruction. (F. & D. No. 40994. Sample No. 55251–C.)

This product was infested with worms.

On December 4, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 boxes of prunes at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about December 11, 1935, from San Francisco, Calif., by Rosenberg Bros. & Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 30, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28424. Adulteration of canned beets. U. S. v. 24 Cases of Canned Beets. Default decree of condemnation and destruction. (F. & D. No. 40728. Sample No. 49907–C.)

This product was in part decomposed.

On or about November 13, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of canned beets at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about October 27, 1937, by Beckman & Gast Canning

Co., from St. Henry, Ohio, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Service Boy Brand Whole Beets Packed for Service Grocer Co., Inc., Detroit, Mich."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 18, 1937, no claimant having appeared, judgment of condemnation was entered and the property was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28425. Adulteration and misbranding of canned lemon juice. U. S. v. 12 Cases of Pure Lemon Juice. Default decree of condemnation and destruction. (F. & D. No. 39157. Sample No. 10312–C.)

This product was diluted with water, and its labeling contained false and fraudulent representations regarding its curative or therapeutic effects.

On March 2, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 cases of lemon juice at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about February 4, 1937, by the Pure Foods Corporation from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Golden Flow Brand Pure Lemon Juice * * * Pure Foods Corp. Los Angeles, California."

It was alleged to be adulterated in that a mixture of lemon juice and water had been substituted in whole or in part for pure lemon juice, which it purported to be.

It was alleged to be misbranded in that the design of lemons and a glass of what was apparently lemon juice and the statement "Pure Lemon Juice," on the label, were false and misleading and tended to deceive and mislead the purchaser as applied to lemon juice diluted with water; and in that it was an imitation of and was offered for sale under the distinctive name of another article, namely, pure lemon juice. It was alleged to be misbranded further in that the statements on the label, "Repels nerve inflammation. Of special value in southern climates to combat disease. An aid to * * * Health of skin and scalp when applied externally," were statements regarding its curative or therapeutic effects and were false and fraudulent.

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28426. Adulteration of butter. U. S. v. 48 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 42170. Sample No. 13021–C.)

This product contained less than 80 percent of milk fat.

On April 1, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 22, 1938, by the Roslyn Creamery Co., from Roslyn, S. Dak., and charging adulteration in violation of the Food and Drugs Act.

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On April 12, 1938, the Roslyn Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28427. Misbranding of canned peas. U. S. v. 215 Cases of Canned Peas. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. No. 40731. Sample No. 62074–C.)

This product was substandard because the peas were not immature, and its label failed to bear a statement indicating that it was substandard.

On November 12, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in

the district court a libel praying seizure and condemnation of 215 cases of canned peas at Wellsville, N. Y., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, by Burgoon & Yingling from Gettysburg, Pa., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "National Park Brand Early June Peas * * * Packed by Burgoon & Yingling Gettysburg, Pa."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 20, 1937, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to various charitable institutions.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28428. Misbranding of canned cherries. U. S. v. 14 Cases, et al., of Red Pitted Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40861. Sample No. 60556–C.)

This product contained excessive pits and was water-packed. Its label did not indicate that it was substandard, and the statement "Water Pack" was not set out in the manner required by the regulations.

On November 18, 1937, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 105 cases of red pitted cherries at Albuquerque, N. Mex., alleging that the article had been shipped on or about August 5 and September 15, 1937, in interstate commerce by the Ray A. Ricketts Co. from Canon City, Colo., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "O–Joy Brand Water Pack Red Pitted Cherries Packed by Ray A Ricketts Company, Canon City, Colo. Crowley, Colo."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than one cherry pit per 20 ounces of net contents, and the special statement "Water Pack" was not on a strongly contrasting uniform background in caps 14-point bold-face type, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 22, 1937, the Ray A. Ricketts Co., having appeared as claimant for the product and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28429. Adulteration and misbranding of Brazil nuts. U. S. v. 9 Bags of Brazil Nuts. Decree of condemnation. Product released under bond for relabeling and reconditioning. (F. & D. No. 40910. Sample No. 58595–C.)

Examination of this product showed the presence of moldy and rancid nuts, and the bags failed to bear a statement of the quantity of contents.

On November 23, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine bags of Brazil nuts at Reading, Pa., alleging that the article had been shipped in interstate commerce on or about October 5, 1937, by General Foods Corporation, from Hoboken, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "King Cole Brites Jumbo Brazil nuts Packed by Baker-Bennett-Day Inc. Div. of General Foods Corp. New York."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid vegetable substance.

Misbranding was alleged in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 2, 1937, General Food Sales Co., Inc., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond to be relabeled and reconditioned under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28430. Adulteration and misbranding of tomato catsup. U. S. v. Charles C. Zatarain (E. A. Zatarain & Sons, Inc.). Plea of guilty. Fine, $30. (F. & D. No. 39807. Sample Nos. 34838–C, 34839–C, 34840–C.)

This product contained artificial coloring and pulp other than tomato pulp. It was also short volume.

On November 20, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles C. Zatarain, trading as E. A. Zatarain & Sons, Inc., New Orleans, La., alleging shipment in violation of the Food and Drugs Act by said defendant on or about April 16, 1937, from the State of Louisiana into the State of Alabama of quantities of tomato catsup which was adulterated and misbranded. The article was labeled in part: "Pa-Poose Brand Tomato Catsup * * * Manufactured by E. A. Zatarain & Sons Inc. New Orleans, La."

It was alleged to be adulterated in that an artificially colored mixture which contained pulp other than tomato pulp had been substituted for tomato catsup made from tomatoes, salt, and spices, which the article purported to be; and in that it was an article inferior to tomato catsup made from tomatoes, salt, and spices, namely, an article composed in part of pulp other than tomato pulp and colored with a certain dye, Ponceau SX, so as to simulate the appearance of catsup made from tomatoes, salt, and spices, and in a manner whereby its inferiority was concealed.

The article was alleged to be misbranded in that the statement "Tomato Catsup * * * made from tomatoes, salt and spices," and the statements of the contents of the various sized containers, namely, "Contents 5 Fluid Oz.," "Contents 8 Oz.," and "Contents 14 Oz.," borne on the labels, were false and misleading, since they represented that the article was tomato catsup made from tomatoes, salt, and spices, and that each of the bottles contained 5 ounces, 8 ounces, or 14 ounces of the article; whereas it was not tomato catsup made from tomatoes, salt, and spices, but was an artificially colored article, composed in part of pulp other than tomato pulp, and each of the bottles did not contain the amount declared but did contain a less amount. It was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 9, 1937, a plea of guilty was entered by the defendant, and he was sentenced to pay a fine of $30.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28431. Misbranding of canned tomato paste. U. S. v. 50 Cases of Tomato Paste. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40482. Sample No. 52102–C.)

The net weight of this product was found to be less than that declared.

On October 22, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of canned tomato paste at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about October 2, 1937, by the West Coast Packing Corporation from Long Beach, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Cans) "Campania Brand Tomato Paste * * * Net Weight 7 lbs. Italian Food Products Co., Inc., Long Beach, California."

It was alleged to be misbranded in that the statement "Net Weight 7 lbs.," borne on the label, was false and misleading and tended to deceive and mislead the purchaser as applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On December 11, 1937, Howard E. Jones & Co., Baltimore, Md., appearing as claimant, judgment of condemnation was entered, and the court ordered the product released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28432. Misbranding of honey. U. S. v. 224 Cases and 24 Cases of Honey. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 41011, 41012. Sample Nos. 51863–C, 51864–C.)

This product was short weight.

On December 6, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 248 cases of honey at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about July 7 and October 27, 1937, from San Francisco, Calif., by E. F. Lane & Son, and charging misbranding in violation of the Food and Drugs Act as amended. The two lots of the article were labeled in part: "Taste Well Pure Honey * * * Packed By San Francisco Honey Co. San Francisco Calif."; "Floradale Brand Pure California Blended Honey * * * Packed and guaranteed by E. F. Lane & Son, San Francisco California."

It was alleged to be misbranded in that the statement "Net Weight 5 Pounds," borne on the label, was false and misleading, and tended to deceive and mislead the purchaser as applied to an article that was short weight; and in that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On December 30, 1937, the cases having been consolidated and E. F. and W. F. Lane, trading as E. F. Lane & Son, claimants, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28433. Adulteration of candy fruit bars. U. S. v. 22 Boxes of Candy Fruit Bars. Default decree of condemnation and destruction. (F. & D. No. 40900. Sample No. 61131–C.)

This product was infested with insects and it contained rodent hair.

On November 23, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 boxes of candy fruit bars at Anniston, Ala., alleging that the article had been shipped in interstate commerce on or about April 19, 1937, from Aberdeen, Miss., by the Hartsell Candy Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Manufactured by Hartsell Candy Co. Aberdeen, Miss."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 28, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28434. Adulteration of shelled peanuts. U. S. v. 135 Bags of Shelled Peanuts. Consent decree of condemnation. Product released under bond. (F. & D. No. 40991. Sample Nos. 51056–C, 51059–C.)

This product was in part moldy.

On December 1, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 135 bags of shelled peanuts at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about August 30, 1937, from Norfolk, Va., by the Planter Nut & Chocolate Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 11, 1937, the National Fruit Canning Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28435. Adulteration of frozen turkeys. U. S. v. 3 Barrels of Frozen Turkeys. Default decree of condemnation and destruction. (F. & D. No. 40948. Sample No. 54898–C.)

This product was decomposed and rat-eaten.

On November 29, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of three barrels of frozen turkeys at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, from Fall River, Mass., by Armour & Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

On December 15, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28436. Adulteration of Brazil nuts. U. S. v. 87 Bags of Brazil Nuts. Product released under bond conditioned that the unfit nuts be destroyed. (F. & D. No. 41122. Sample No. 60589–C.)

This product was in part moldy, rancid, and shriveled.

On December 15, 1937, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 87 bags of Brazil nuts at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about September 16, 1937, by the American Commerce Co. from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On December 17, 1937, Zion's Cooperative Mercantile Institution, Salt Lake City, Utah, claimant, having admitted that a portion of the product was adulterated but having asserted that a portion could be recleaned and regraded and made to conform with the law, judgment was entered ordering the product released under bond conditioned in part that the unfit nuts be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28437. Adulteration of prunes. U. S. v. 32 Boxes and 161 Boxes of Prunes. Default decree of condemnation and destruction. (F. & D. No. 40998. Sample Nos. 54899–C, 54900–C.)

This product was insect-infested and decomposed.

On December 4, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 193 boxes of prunes at Providence, R. I., alleging that the article had been shipped in interstate commerce in part on or about August 31, 1935, and in part on or about February 26, 1936, from San Jose, Calif., by the Richmond-Chase Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 30, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28438. Adulteration of rabbits. U. S. v. 6 Sacks of Rabbits. Default decree of condemnation. Fit portion ordered sold; unfit portion destroyed. (F. & D. No. 40711. Sample No. 60653–C.)

A portion of this product was found to be decomposed or to contain tapeworm cysts.

On November 9, 1937, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six sacks of rabbits at Denver, Colo., consigned by J. D. Greenwood, alleging that the article had been shipped in interstate commerce from La Lande, N. Mex., on or about November 8, 1937, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "J. D. Greenwood, La Lande, New Mexico."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

On January 4, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered that the fit portion of the product be segregated and sold and that the unfit portion be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28439. Misbranding of canned cherries. U. S. v. 53 Cases of Canned Cherries. Product released under bond for relabeling. (F. & D. No. 39156. Sample No. 36107–C.)

This product was substandard because it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On March 1, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 cases of canned cherries at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about September 19, 1936, from Post Falls, Idaho, by Seiter's Inc., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Coeur d'Alene Brand Red Sour Pitted Cherries Packed in Water Seiter's Inc."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than one cherry pit for each 10 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 13, 1937, the product having theretofore been released under bond by order of the court and having been relabeled by the claimant, Seiter's Inc., in accordance with the terms of the said bond, final order of release was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28440. Adulteration and misbranding of cocktail fruit mixer. U. S. v. 31 One-Gallon Jugs of Cocktail Fruit Mixer. Default decree of condemnation and destruction. (F. & D. No. 40688. Sample No. 61712–C.)

This product consisted of water, lemon juice, and added acid; but was labeled to indicate that it was lemon juice.

On November 10, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 6-gallon jugs of cocktail fruit mixer at Jamestown, N. Y., alleging that the article had been shipped in interstate commerce on or about June 23 and July 22, 1937, by Skyscraper Products Co. from Philipsburg, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lemon * * * Skyscraper Brand * * * Cocktail Fruit Mixer Skyscraper Products Co. Philipsburg, Pa."

It was alleged to be adulterated in that it was mixed in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the statements, "Lemon * * * Fruit Mixer Use As a Juice of Fresh Fruit * * * 1 Ounce of Lemon Fruit Mixer is Equivalent to the Juice of 1 Lemon," were false and misleading and tended to deceive and mislead the purchaser as applied to an article that consisted of water, lemon juice, and added acid; and also in that the article was an imitation of another article, namely, lemon juice.

On December 13, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28441. Adulteration of walnuts in shell. U. S. v. 7 Bags of Walnuts. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 40696. Sample No. 9518–C.)

These walnuts were wormy and moldy.

On November 12, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven bags of walnuts at New York, N. Y., alleging that the article had been shipped on or about September 10, 1937, in foreign commerce from Morocco, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Product of Morocco T S C Noix Walnuts."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 6, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28442. Misbranding of canned cherries. U. S. v. 17⅔ Cases of Canned Cherries. Consent decree entered. Product ordered released under bond for relabeling. (F. & D. No. 40951. Sample No. 50881–C.)

This product was substandard because the cherries were packed in water, and it was not labeled to indicate that it was substandard.

On November 29, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17⅔ cases of canned cherries at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about July 12 and October 2, 1937, from Ogden, Utah, by John Scowcroft & Sons Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kitchen King Brand Pitted Red Cherries * * * Packed by John Scowcroft & Sons Co. Ogden, Utah, U. S. A."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the cherries were packed in water and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 27, 1937, John Scowcroft & Sons Co., Twin Falls, Idaho, claimant, having consented to entry of a decree, judgment was entered ordering the product released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28443. Adulteration of rabbits. U. S. v. 2 Sacks of Rabbits. Consent decree of condemnation. Unfit portion of the product ordered destroyed and fit portion ordered segregated. (F. & D. No. 40953. Sample No. 60776–C.)

A portion of these rabbits were decomposed and filthy.

On November 29, 1937, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two sacks of rabbits at Denver, Colo., consigned by Charlie P. Senna, Yeso, N. Mex., alleging that the article had been shipped in interstate commerce on or about November 22, 1937, from Yeso, N. Mex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On December 4, 1937, Charlie P. Senna having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the fit portion of the product be segregated and sold and that the remainder be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28444. Misbranding of canned peas. U. S. v. 450 Cases of Peas. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41837. Sample No. 12000–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 25, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 450 cases of canned peas at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about January 22, 1938, by Thomas Roberts & Co., of Philadelphia, Pa., from Ridgely, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Caroline Brand Early June Peas * * * Saulsbury Bros. Inc. Distributors Ridgely, * * * Md."

It was alleged to be misbranded in that it was substandard, since more than 25 percent of the peas were ruptured.

On March 23, 1938, Walter W. Thrasher, Willoughby J. Rothrock, and Linton A. Thrasher, trading as Thomas Roberts & Co., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28445. Misbranding of cottonseed meal. U. S. v. Interstate Mill & Storage Co. Plea of guilty. Fine, $300 and costs. (F. & D. No. 39845. Sample No. 661–C.)

The net weight of this product was found to be less than that declared on the label.

On November 20, 1937, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Interstate Mill & Storage Co., Cairo, Ill., alleging shipment by said company on or about June 28, 1937, from the State of Illinois into the State of Kansas, of a quantity of cottonseed meal which was misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: "100 Pounds Net Choctaw Sales Company Kansas City, Missouri."

The product was alleged to be misbranded in that the statement on the tag, "100 Pounds Net," was false and misleading and in that it was labeled so as to deceive and mislead the purchaser, since the sacks contained less than the amount stated; it was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously stated on the outside of the package since the statement made was incorrect.

On December 14, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $300 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28446. Adulteration of butter. U. S. v. 25 Tubs of Butter. Consent decree of condemnation and forfeiture. Product ordered released under bond to be reworked. (F. & D. No. 40597. Sample No. 56993–C.)

This product was deficient in milk fat.

On October 16, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 tubs of butter at New York, N. Y., alleging that the product had been shipped in interstate commerce on or about October 2, 1937, by the Cavalier Creamery from Cavalier, N. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which contains not less than 80 percent of milk fat.

On January 19, 1938, the Cavalier Creamery Co., claimant, having admitted the allegations of the libel, consent decree of condemnation was entered, and the seized product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28447. Adulteration and misbranding of olive oil. U. S. v. Donato Varrone. Plea of nolo contendere. Fine, $40. (F. & D. No. 39810. Sample No. 20389–C.)

This product was represented to be pure imported olive oil, whereas it was composed in part of an artificially colored and flavored oil other than imported olive oil.

On December 18, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Donato Varrone, Waterbury, Conn., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about September 26, 1936, from the State of Connecticut into the State of Massachusetts, of a quantity of olive oil which was adulterated and misbranded. The article was labeled in part: "Pure Olive Oil Fior D'Italia Brand * * * Guaranteed Imported from Lucca—Italy V. Bressi Bros."

It was alleged to be adulterated in that an oil other than olive oil had been mixed and packed with it so as to reduce and lower its quality and strength; in that it was an article inferior to olive oil, namely, a mixture composed in part of oil other than olive oil and was colored with an artificial color, Quinizarine, so as to simulate the appearance of olive oil, and in a manner whereby its inferiority to olive oil was concealed; and in that an artificially colored and flavored product composed in part of oil other than olive oil had been substituted for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the statements in English and Italian, to wit, "Fior d'Italia," "Guaranteed Imported from Lucca—Italy," "Garantito Importate da Lucca—Italy," "This olive oil is guaranteed to be ab-

solutely pure. Recommended for cooking, table and medicinal use," "Quest' Olio d'Oliva e garantito assolutamente pure. E' raccomandato per uso da tavola, cucina e per uso medicinale," and "Pure imported olive oil," together with the design of an Italian landscape and tree bearing olives, borne on the cans, were false and misleading and were borne on the said cans so as to deceive and mislead the purchaser since they represented that the article was pure olive oil imported from Italy, whereas it was not pure olive oil imported from Italy but was an artificially colored and flavored mixture composed in part of oil other than olive oil not imported from Italy; and in that it was an artificially colored and flavored mixture composed in part of oil other than pure imported oil prepared in imitation of pure imported olive oil, and was offered for sale and sold under the distinctive name of another article."

On December 21, 1937, a plea of nolo contendere was entered by the defendant and he was sentenced to pay a fine of $40.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28448. Misbranding of cottonseed meal. U. S. v. Delta Products Co. Plea of guilty. Fine, $50 and costs. (F. & D. No. 39767. Sample No. 660–C.)

This product contained a smaller proportion of protein than that declared on the label.

On September 14, 1937, the United States attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Delta Products Co., a corporation, Evadale, Ark., alleging shipment by said company in violation of the Food and Drugs Act, on or about March 11, 1937, from the State of Arkansas into the State of Kansas, of a quantity of cottonseed meal which was misbranded. The article was labeled in part: (Tag) "Dixie Brand Cotton Seed Meal * * * Guaranteed by Humphreys-Godwin Co. Memphis, Tenn."

It was alleged to be misbranded in that the statements on the tag, "41% Protein" and "Min. Protein 41.00%," were false and misleading, and were borne on the tags so as to deceive and mislead the purchaser since it contained less than 41 percent of protein.

On November 22, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28449. Misbranding of cottonseed meal. U. S. v. Southland Cotton Oil Co. Plea of guilty. Fine, $50 and costs. (F. & D. No. 39777. Sample Nos. 658–C, 659–C.)

This product contained a smaller proportion of protein than that declared on the label.

On September 30, 1937, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, trading at Oklahoma City, Okla., alleging shipment by said company in violation of the Food and Drugs Act, on or about February 16, 1937, from the State of Oklahoma into the State of Kansas, of quantities of cottonseed meal which was misbranded. The article was labeled in part: (Tags) "Southland's Cottonseed Cake and Meal * * * Southland Cotton Oil Company Head Office Paris, Texas."

It was alleged to be misbranded in that the statement on the tags, "Crude Protein, not less than 43%," was false and misleading and was borne on the tags so as to deceive and mislead the purchaser since it contained less than 43 percent, namely, not more than 39.13 percent in the case of one lot, and 38.69 percent in the case of the remaining lot, of crude protein.

On September 22, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28450. Adulteration and misbranding of tomato paste. U. S. v. The H. J. McGrath Co. Plea of guilty. Fine, $50 and costs. (F. & D. No. 39785. Sample Nos. 28483–C, 35229–C.)

This product was deficient in tomato solids, and its label bore false and misleading representations that it was a foreign product. One lot contained excessive mold.

On October 21, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an

information against the H. J. McGrath Co., Baltimore, Md., alleging shipment in violation of the Food and Drugs Act by said company, on or about August 17, 1936, and January 19, 1937, from the State of Maryland into the States of Ohio and Pennsylvania of quantities of tomato paste which was adulterated and misbranded. The article was labeled in part: (Cans) "Champion Brand * * * The H. J. McGrath Company Baltimore, Md., U. S. A. Distributors."

It was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for tomato paste, which it purported to be. One lot was alleged to be adulterated further in that it consisted in whole and in part of a decomposed vegetable substance.

The article was alleged to be misbranded in that the statements "Tomato Paste * * * Salsa di Pomidoro," together with the design and device of a scene from Naples on the label, were false and misleading and were borne on the label so as to deceive and mislead the purchaser since they represented that the article was tomato paste of foreign origin; whereas it was not tomato paste but was a product deficient in tomato solids, and was not of foreign origin, but was produced in the United States of America.

On November 19, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28451. Adulteration of candy. U. S. v. 10 Barrels of Chocolates and 9 Barrels of Hard Candies. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 40612. Sample No. 58590–C.)

This product contained foreign material, such as sticks, splinters, bits of paper, and nondescript filth.

On October 28, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 barrels of chocolates and 9 barrels of hard candies at Camden, N. J., alleging that the article had been shipped in interstate commerce on or about October 13, 1937, by S. F. Whitman & Son, Inc., from Philadelphia, Pa., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 20, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28452. Misbranding of canned peas. U. S. v. 7,200 Cases of Canned Peas. Decree of condemnation. Product released under bond, the substandard portion to be relabeled. (F. & D. No. 40420. Sample Nos. 58604–C, 67477–C.)

A part of this product fell below the standard for canned peas established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On October 4, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 7,200 cases of canned peas at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce between the dates of June 12 and June 28, 1937, inclusive, by Phillips Sales Co., from Newark, Del., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Phillips Delicious Early June Peas * * * Packed by Phillips Packing Co., Inc., Cambridge, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature, more than 25 percent being ruptured and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On December 13, 1937, Phillips Sales Co., having appeared as claimant, judgment of condemnation was entered, and it was ordered that the product be released to the claimant under bond conditioned that the substandard portion be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28453. Adulteration of butter. U. S. v. Swift & Co. Plea of nolo contendere. Fine, $50. (F. & D. No. 39449. Sample No. 28431–C.)

This product contained less than 80 percent of milk fat.

On July 15, 1937, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation trading at Paris, Tex., alleging shipment by the said defendant in violation of the Food and Drugs Act, on or about November 14, 1936, from the State of Texas into the State of Illinois, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On December 13, 1937, a plea of nolo contendere was entered and the defendant was sentenced to pay a fine of $50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28454. Adulteration and misbranding of frozen eggs. U. S. v. 146 Cans of Frozen Eggs. Consent decree of condemnation and forfeiture. Property released under bond for segregation and destruction of decomposed portions and labeling of remainder. (F. & D. No. 40727. Sample No. 71043–C.)

This product was in part decomposed and the quantity of the contents did not appear on the cans.

On November 12, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 146 cans of frozen eggs at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about November 1, 1937, by the Pruitt Produce Co. from Ardmore, Okla., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

It was alleged to be misbranded in that it was food in package form and the quantity of the contents of the package was not plainly and conspicuously marked on the outside of the package, in that no quantity was stated.

On December 17, 1937, the Pruitt Produce Co., having appeared as claimant and consented, judgment of condemnation was entered. The property was ordered released under bond conditioned that the unfit portions thereof be segregated and destroyed and the good portion properly labeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28455. Adulteration of flour. U. S. v. 41 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 40678. Sample No. 48547–C.)

This product was infested with weevils.

On November 6, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 bags of flour at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about February 15 and February 23, 1937, by El Reno Mill & Elevator Co. from El Reno, Okla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "El Reno Mill and Elevator Co. El Reno Okla."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 8, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28456. Adulteration of apples. U. S. v. 12 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40877. Sample No. 59096–C.)

This product was contaminated with arsenic and lead.

On September 16, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 bushels of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, from Benton Harbor, Mich., by Miretsky

& Joseph to themselves at Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Henry Fisher R–2 Coloma, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 5, 1937, no claimant having appeared, judgment of condemnation was entered ordering the product destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28457. Misbranding of canned peas. U. S. v. 63 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. No. 40581. Sample No. 40602–C.)

These peas were not immature and they were not labeled to indicate that they were substandard.

On October 28, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 63 cases of canned peas at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about July 24, 1937, by the Merton Canning Co. from Merton, Wis., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Merton Brand Wisconsin Peas. * * * Packed by Merton Canning Co. Merton, Wis."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that the peas were not immature and the package or label did not bear a plain and conspicuous statement, as prescribed, to that effect.

On December 13, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28458. Adulteration of tomato puree. U. S. v. Loudon Packing Co. Plea of guilty. Fine, $25. (F. & D. No. 39829. Sample Nos. 33888–C, 49003–C.)

This product contained excessive mold.

On November 27, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Loudon Packing Co., a corporation trading at Terre Haute, Ind., alleging shipment by said company in violation of the Food and Drugs Act, on or about April 27 and May 24, 1937, from the State of Indiana into the State of Illinois, of quantities of tomato puree which was adulterated. The article was labeled in part: "Traymore Brand Tomato Puree * * * Distributors Central Grocers Co-Operative Inc. Chicago, Ill."

It was alleged to be adulterated in that it consisted in whole and in part of a filthy and decomposed vegetable substance.

On December 8, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28459. Adulteration and misbranding of tomato puree. U. S. v. Taormina Corporation. Plea of guilty. Fine, $25. (F. & D. No. 39755. Sample Nos. 34659–C, 34667–C.)

This product was deficient in tomato solids.

On August 10, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Taormina Corporation, trading at New Orleans, La., alleging shipment in violation of the Food and Drugs Act by the said defendant on or about March 19, 1937, from the State of Louisiana into the State of Mississippi, of quantities of tomato puree which was adulterated and misbranded. The article was labeled in part: (Cans) "Buffalo Brand Tomato Puree * * * Packed by Taormina Corp. New Orleans, La. Donna, Texas"; (cases, one shipment) "Tomato Puree."

It was alleged to be adulterated in that a product deficient in tomato solids had been substituted for tomato puree, which it purported to be.

It was alleged to be misbranded in that the statements borne on the labels, "Tomato Puree" and "Puree di Pomidoro," were false and misleading and were borne on the labels so as to deceive and mislead the purchaser, since they repre-

sented that the article was tomato puree; whereas it was not tomato puree but was a product deficient in tomato solids.

On December 9, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28460. Adulteration of cashew nuts. U. S. v. 6 Cases and 1 Carton of Cashew Nuts. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 40567. Sample No. 10821–C.)

This article was insect-infested.

On October 23, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six cases and one carton of cashew nuts at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about October 11, 1937, by the Colonial Warehouse & Transfer Co. from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On December 10, 1937, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28461. Adulteration of flour. U. S. v. 420 Sacks of Flour. Consent decree of condemnation. Product released under bond conditioned that the bad portion be denatured. (F. & D. No. 40404. Sample Nos. 37736–C, 37738–C.)

This product was infested with worms and insects.

On September 29, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 420 sacks of flour at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about June 1, 1937, from Buffalo, N. Y., by the Pillsbury Flour Mills Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pillsbury XXXX Patent Flour Pillsbury Flour Mills Company. * * * Minneapolis, Minn."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 22, 1937, the Pillsbury Flour Mills Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the bad flour be segregated from the good, if any, and the former denatured and disposed of for purposes other than human consumption.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28462. Adulteration of canned shrimp. U. S. v. Quong Sun Co., Inc. Plea of guilty. Fine, $25. (F. & D. No. 39742. Sample Nos. 6697–C, 6698–C.)

This product was in part decomposed.

On June 17, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Quong Sun Co., Inc., New Orleans, La., alleging that on or about January 21, 1937, the defendant delivered to a common carrier at New Orleans, La., for shipment to the Republic of Panama, quantities of canned shrimp which was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On December 9, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28463. Adulteration of canned tomato paste. U. S. v. 9 Cases of Canned Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 41572. Sample No. 1227–D.)

Samples of this product were found to contain excessive mold.

On January 31, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cases of canned

tomato paste at Bradford, Pa., alleging that the article had been shipped in interstate commerce on or about December 30, 1937, by Page's Gold Medal Canning Co. from Buffalo, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Page's Gold Medal Italian Style Tomato Paste * * * Packed by Page's Gold Medal Canning Co., Inc., Albion, New York."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28464. Adulteration of butter. U. S. v. Farmers Equity Cooperative Creamery Association, Inc. Plea of guilty. Fine, $300 and costs. (F. & D. No. 39851. Sample Nos. 39483–C, 39484–C.)

This product contained less than 80 percent of milk fat.

On December 21, 1937, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Farmers Equity Cooperative Creamery Association, Inc., having a place of business at Orleans, Nebr., alleging shipment by said company in violation of the Food and Drugs Act, on or about June 22, 1937, from the State of Nebraska into the State of California, of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a substance containing less than 80 percent by weight of milk fat had been substituted wholly or in part for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923, which the article purported to be.

On January 29, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $300.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28465. Adulteration of canned blackberries. U. S. v. 198 Cases of Canned Blackberries. Default decree of condemnation and destruction. (F. & D. No. 40730. Sample No. 51896–C.)

This product contained moldy berries.

On November 17, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 198 cases of canned blackberries at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about October 15, 1937, from Salem, Oreg., by Paulus Bros. Packing Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "White Tag Blackberries * * * Paulus Bros. Packing Co., Salem, Oreg."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28466. Misbranding of bread. U. S. v. Safeway Stores, Inc. Plea of guilty. Fine, $27. (F. & D. No. 39843. Sample Nos. 48043–C, 48044–C, 48046–C.)

This product was short weight.

On January 22, 1938, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Safeway Stores, Inc., trading at Salt Lake City, Utah, alleging shipment by said company in violation of the Food and Drugs Act, on or about July 22 and 23, 1937, from the State of Utah into the State of Idaho, of quantities of bread which was misbranded. The article was labeled in part: "American Youth * * * Bread."

It was alleged to be misbranded in that the statement borne on the label, "Wt. 1 Lb.," was false and misleading since many of the loaves were severally of a weight less than 1 pound; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight, since the contents of each of many of the packages were of a weight less than 1 pound.

On January 22, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $27.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28467. Adulteration of prunes. U. S. v. North Pacific Cooperative Prune Exchange. Plea of guilty. Fine, $25. (F. & D. No. 39812. Sample No. 29578–C.)

This product consisted in part of decomposed prunes.

On November 24, 1937, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the North Pacific Cooperative Prune Exchange, a corporation, Portland, Oreg., alleging shipment by said company in violation of the Food and Drugs Act, on or about March 11, 1937, from the State of Oregon into the State of Washington, of a quantity of prunes which were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 6, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28468. Adulteration and misbranding of preserves. U. S. v. Gold Label Kitchens, Inc. Plea of nolo contendere. Fine, $160 and costs. (F. & D. No. 38582. Sample Nos. 52728–B, 63353–B to 63355–B, incl., 63359–B, 63360–B.)

These products were deficient in fruit and contained excess sugar and added pectin or added acid or both. The apricot preserves also contained excess moisture.

On August 19, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Gold Label Kitchens, Inc., Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 10, 1935, and April 17 and 18, 1936, in the name of Thorne & Olds, Inc., from the State of Illinois into the State of Iowa, of quantities of preserves which were adulterated and misbranded. The articles were labeled in part: "Gold Label Pure Preserves Strawberry [or "Raspberry," "Cherry," "Apricot," or "Peach"] Manufactured By Thorne & Olds, Inc. Chicago, Ill."

They were alleged to be adulterated in that sugar and pectin in the case of the strawberry, raspberry, and one lot of the cherry preserves; sugar, acid, and pectin in the case of the remaining lots of the cherry preserves; sugar and acid in the case of the peach preserves; and sugar, acid, pectin, and water which should have been removed by boiling in the case of the apricot preserves, had been mixed and packed with the articles so as to reduce and lower their quality and strength; in that mixtures deficient in fruit and containing excess sugar had been substituted for pure strawberry, raspberry, cherry, peach, and apricot preserves, which they purported to be; and in that they were inferior to strawberry, raspberry, cherry, peach, and apricot preserves and had been mixed so as to simulate the appearance of said preserves and in a manner whereby their inferiority was concealed.

Misbranding was alleged in that the statements "Pure Preserves Strawberry [or "Raspberry," "Cherry," "Peach," or "Apricot"]" were false and misleading and were borne on the labels so as to deceive and mislead the purchaser; and in that they were imitations of and were offered for sale under the distinctive names of other articles.

On January 17, 1938, a plea of nolo contendere was entered and the defendant was sentenced to pay a fine of $160 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28469. Adulteration of canned tomato and celery juice. U. S. v. 94 Cans and 24 Cases of Canned Tomato and Celery Juice. Default decree of condemnation and destruction. (F. & D. No. 41341. Sample No. 60848–C.)

This product was undergoing decomposition.

On January 7, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 94 cans and 24 cases, each containing 48 cans, of tomato and celery juice at Denver, Colo., consigned by Haas, Baruch & Co., alleging that the article had been shipped in interstate commerce on or about August 10, 12, and 16, 1936, from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Celto Brand Tomato and Celery Juice * * * Packed for Blake and Blackinton Ogden, Utah."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28470. Misbranding of canned cherries. U. S. v. 166 Cases of Canned Cherries. Judgment entered ordering product released under bond. (F. & D. No. 41342. Sample No. 48790–C.)

This product fell below the standard for canned cherries established by this Department because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On January 5, 1938, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 166 cases of canned cherries at Lawton, Okla., alleging that the article had been shipped in interstate commerce on or about August 5, 1937, by H. C. Hemingway & Co. from Lockport, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Schuyler Pitted Red Cherries in Water Distributed by H. C. Hemingway & Co., Auburn * * * N. Y."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it contained more than 1 cherry pit per 20 ounces of net contents and the package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On January 21, 1938, H. C. Hemingway & Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it should not be sold or otherwise disposed of contrary to the provisions of the Federal Food and Drugs Act.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28471. Adulteration of apples. U. S. v. 129 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41147. Sample No. 59589–C.)

This product was contaminated with arsenic and lead.

On November 3, 1937, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 129 bushels of apples at Nashville, Tenn., alleging that the article had been shipped in interstate commerce on or about November 1, 1937, by E. Gallaher from Coloma, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "E. Gallaher, Coloma, Mich."

The apples were alleged to be adulterated because of the presence of excessive arsenic and lead, which might have rendered them harmful to health.

On January 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28472. Adulteration of prunes. U. S. v. 706 Bags of Prunes. Default decree of condemnation and destruction. (F. & D. No. 40164. Sample No. 48126–C.)

This product was moldy, dirty, and insect-infested.

On August 20, 1937, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 706 bags of prunes at Martinsburg, W. Va., alleging that the article had been shipped in interstate commerce on or about April 13, 1937, by the Winchester Dried Fruit Co. from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was moldy, dirty, and infested with insects.

On October 1, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28473. Adulteration and misbranding of New Process Bouquet. U. S. v. One 5-Gallon Keg of New Process Bouquet. Default decree of condemnation and destruction. (F. & D. No. 41071. Sample No. 62094–C.)

This product contained from 2 to 5 percent of a poison, namely, a glycol.

On December 10, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one keg of New Process Bouquet at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about September 30, 1937, from Buffalo, N. Y., by Henry & Henry, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance containing a glycol, a poison, had been substituted wholly or in part for New Process Bouquet, a flavoring to be used in bakery products, which the article purported to be.

It was alleged to be misbranded in that the statement "New Process Bouquet" was false and misleading, and tended to deceive and mislead the purchaser when applied to a flavor to be used in bakery products, and which contained a glycol, a poison.

On January 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28474. Adulteration and misbranding of orange bitters. U. S. v. 62 Bottles of Orange Bitters. Default decree of condemnation and destruction. (F. & D. No. 41311. Sample No. 63234–C.)

This product contained about 35 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 7, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 62 bottles of orange bitters at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about October 2, 1937, from San Francisco, Calif., by Cresta Blanca Beverage Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cresta Orange Bitters * * * Cresta Blanca Bev. Co. San Francisco, Calif."

It was alleged to be adulterated in that an article containing a glycol or glycol ether, or both, poisons, had been substituted in whole or in part for orange bitters, a food flavor, which it purported to be; and in that it contained an added poisonous ingredient, a glycol or glycol ether, or both, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the name "Orange Bitters" was false and misleading and tended to deceive and mislead the purchaser as applied to an article containing a glycol or glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article, orange bitters, a food flavor.

On March 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28475. Adulteration and misbranding of imitation vanilla flavor. U. S. v. Two 1-Gallon Bottles of Imitation Vanilla Flavor. Default decree of condemnation and destruction. (F. & D. No. 41033. Sample No. 61150–C.)

This product contained a poison—a glycol or a glycol ether.

On December 6, 1937, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two bottles of imitation vanilla flavoring at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about November 20, 1937, from New Orleans, La., by J. S. Waterman & Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Waterman Brand * * * Manufactured By J. S. Waterman & Co. New Orleans."

The article was alleged to be adulterated in that a product containing a glycol or a glycol ether, a poison, had been substituted for concentrated imitation vanilla flavor, which it purported to be.

It was alleged to be misbranded in that the statement "Concentrated Imitation Vanilla Flavor," borne on the label, was false and misleading and tended to deceive and mislead the purchaser since the article contained a glycol or a glycol ether, a poison.

On January 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28476. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Judgment ordering product released under bond for regrading. (F. & D. No. 41400. Sample No. 16801–D.)

This product was below the grade declared on the label.

On January 11, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 400 sacks of potatoes at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about January 5, 1938, by Paul Jackins, of Houlton, Maine, from Carys Mills, Maine, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement "U. S. No. 1," borne on the label, was false and misleading and tended to deceive and mislead the purchaser as applied to potatoes below U. S. Grade No. 1.

On January 17, 1938, the C. H. Robinson Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it be regraded under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28477. Adulteration of cauliflower. U. S. v. 47 Crates of Fresh Cauliflower. Default decree of forfeiture and destruction. (F. & D. No. 41153. Sample No. 64003–C.)

This product was contaminated with arsenic.

On November 29, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 crates of fresh cauliflower at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about November 10, 1937, by Frank Colacurcio & Co., of Seattle, Wash., from Portland, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Portland Rose Brand Cauliflower C. Taketa Distributor Portland Oregon."

It was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, arsenic, which might have rendered it injurious to health.

On December 21, 1937, no claimant having appeared, judgment of forfeiture was entered and it was ordered that the product be destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28478. Adulteration and misbranding of butter. U. S. v. 5 Cartons of Butter. Default decree of condemnation and destruction. (F. & D. No. 40622. Sample Nos. 55201–C, 55203–C, 55210–C.)

This product contained less than 80 percent of milk fat.

On October 18, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cartons of butter at Springfield and two cartons of butter at Worcester, Mass., consigned on or about September 29, 1937, alleging that the article had been shipped in interstate commerce from Mitchell, S. Dak., by Armour Creameries, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Goldendale Creamery Butter Distributed by Armour Creameries."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, which it purported to be, the act of March 4, 1923, providing that butter shall contain not less than 80 percent by weight of milk fat.

Misbranding was alleged in that the product was an imitation of and was offered for sale under the distinctive name of another article, butter.

On January 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28479. Adulteration and misbranding of butter. U. S. v. Frye & Co. Plea of guilty. Fine, $57 and costs. (F. & D. No. 39783. Sample Nos. 33196–C, 33197–C, 33210–C, 36045–C.)

On December 17, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frye & Co., a corporation trading at Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act, on or about May 14 and 28 and June 11, 1937, from the State of Washington into the Territory of Alaska, of quantities of butter which was adulterated and misbranded. The article was labeled in part: "Mountain View Butter * * * Frye and Company Packers and Provisioners."

It was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

Misbranding was alleged in that the statement "Butter," borne on the labels, was false and misleading since it represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat.

On January 10, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $57 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28480. Misbranding of canned tomatoes. U. S. v. 478 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Article ordered released under bond for relabeling. (F. & D. No. 40229. Sample No. 44229–C.)

This product was not normally colored, and it was not labeled to indicate that it was substandard.

On or about September 1, 1937, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 478 cases of canned tomatoes at Wadesboro, N. C., alleging that the article had been shipped in interstate commerce on or about August 2, 1937, by the Iodine Vegetable Cannery (R. L. Kirkwood) from Bennettsville, S. C., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kirkwood Brand Tomatoes * * * Packed by Iodine Vegetable Cannery Bennettsville, S. C."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the tomatoes were not normally colored and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On November 22, 1937, R. L. Kirkwood, trading as the Iodine Vegetable Cannery, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled so as to comply with the Federal Food and Drugs Act.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28481. Adulteration of canned shrimp. U. S. v. 195 Cases of Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41673. Sample No. 16401–D.)

This product was in whole or in part decomposed.

On February 10, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 195 cases of shrimp at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, by the Lone Star Fish & Oyster Co. from Corpus Christi, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Texas Star Brand Shrimp * * * Packed by Lone Star Fish & Oyster Co."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28482. Adulteration of flour. U. S. v. 9 Bags of Flour, et al. Default decree of condemnation and destruction. (F. & D. No. 40475. Sample Nos. 44088–C to 44091–C, incl.)

This product was infested with weevils.

On or about October 13, 1937, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 113 bags of flour at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about December 23, 1936, and May 21 and June 29, 1937, from New York, N. Y., by Hecker-Jones-Jewell Milling Division of the Standard Milling Co., and charging adulteration in violation of the Food and Drugs Act.

The article was labeled in part: "Hecker-Jones-Jewell Milling Div. Standard Milling Co., New York."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28483. Adulteration and misbranding of assorted fruit flavors. U. S. v. 50 Cases of Hi-Life Concord Grape True Fruit, et al. Default decree of condemnation and destruction. (F. & D. No. 42020. Sample Nos. 15121–D to 14126–D, incl.)

This case involved products labeled to indicate that they were fruitade bases, but which were mixtures of acid, water, sugar, and flavor, containing little or no fruit or fruit juices.

On March 22, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of assorted fruit flavors at Boise, Idaho, alleging that the articles had been shipped in interstate commerce on or about August 9, 1937, by Douglas Products Co. from Seattle, Wash., and charging adulteration and misbranding, with respect to certain varieties, in violation of the Food and Drugs Act. The products which were charged to be adulterated and misbranded were labeled in part: (Bottles) "Hi-Life Concord Grape [or "Orange Punch," "Strawberry Punch," or "Lemon Punch"] True Fruit * * * Douglas Products Co. Seattle, Wash."

Adulteration was alleged in that mixtures of acid, water, sugar, and flavor, containing little or no fruit or fruit juices, had been substituted wholly or in part for Concord Grape True Fruit, Strawberry Punch True Fruit, Orange Punch True Fruit, and Lemon Punch True Fruit, which they purported to be.

Misbranding was alleged in that the statements, "Concord Grape [or "Orange Punch," "Strawberry Punch," or "Lemon Punch"] True Fruit," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were mixtures of acid, water, sugar, and flavor containing little or no fruit or fruit juices; and in that the said four products were imitations of and were offered for sale under the distinctive names of other articles.

On April 15, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28484. Misbranding of honey. U. S. v. Reginald Douglas Bradshaw, Douglas Bixby Bradshaw, and Kenneth Pence Bradshaw (R. D. Bradshaw & Sons). Pleas of guilty. Fine, $65. (F. & D. No. 39852. Sample Nos. 50739–C, 50740–C, 50768–C to 50771–C, incl., 51129–C, 51131–C to 51135–C, incl., 51137–C.)

This product was short weight.

On December 27, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Reginald Douglas Bradshaw, Douglas Bixby Bradshaw, and Kenneth Pence Bradshaw, trading as R. D. Bradshaw & Sons, at Wendell, Idaho, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on various dates between June 13, 1936 and August 14, 1937, from the State of Idaho into the States of Oregon and Washington, of quantities of honey which was misbranded. The article was labeled in part: "Bradshaw's Clover Blossom [or "Bradshaw's Pure"] Honey. Net Weight 2½ Lbs. [or "1 lb.," "9 lbs.," "5 Lbs.," or "Net Wt. 17 Oz."]."

It was alleged to be misbranded in that the statements, "Net Weight 2½ Lbs.," "Net Weight 1 lb.," "Net Weight 9 Lbs.," "Net Weight 5 Lbs.," and "Net Wt. 17 Oz.," borne upon the several labels, were false and misleading, since the packages contained less than the amounts declared; in that it was labeled as aforesaid so as to deceive and mislead the purchaser and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package in terms of weight, since the quantity of contents was less than declared.

On December 29, 1937, pleas of guilty were entered by the defendants and they were sentenced to pay fines in the total amount of $65.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28485. Adulteration and misbranding of alfalfa meal. U. S. v. El Reno Mill & Elevator Co. Plea of nolo contendere. Fine, $100 and costs. (F. & D. No. 39479. Sample No. 2081–C.)

This product contained less protein than that declared on the label, and it consisted in part of alfalfa stems and foreign grasses.

On May 22, 1937, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the El Reno Mill & Elevator Co., a corporation, El Reno, Okla., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 4, 1936, from the State of Oklahoma into the State of Texas, of a quantity of alfalfa meal which was adulterated and misbranded. The article was labeled in part: (Tag) "Alfalfa Meal Manufactured by El Reno Mill & Elevator Co., El Reno, Oklahoma."

It was alleged to be adulterated in that a product deficient in protein and which contained added alfalfa stems and foreign grasses, had been mixed and packed with the article so as to lower and reduce and injuriously affect its quality and strength; in that it was a product inferior to alfalfa meal and had been mixed in a manner whereby its inferiority was concealed; and in that a product deficient in protein and containing alfalfa stems and foreign grasses had been substituted for alfalfa meal, which the article purported to be.

Misbranding was alleged in that the statements on the tag, "Alfalfa Meal" and "Guaranteed Analysis Crude Protein 14%," were false and misleading and were borne on the tag so as to deceive and mislead the purchaser, since they represented that the article consisted wholly of alfalfa meal and that it contained not less than 14 percent of crude protein; whereas it did not consist wholly of alfalfa meal but did consist in part of alfalfa stems and foreign grasses, and did contain less than 14 percent, namely, not more than 11.2 percent of crude protein.

On January 11, 1938, a plea of nolo contendere was entered and the defendant was sentenced to pay a fine of $100 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28486. Misbranding of alfalfa meal. U. S. v. Pecos Valley Alfalfa Mill Co. Plea of guilty. Fine, $30. (F. & D. No. 39481. Sample No. 2603–C.)

This product contained less protein, less fat, and more fiber than declared and it also contained excessive alfalfa stems.

On October 2, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Pecos Valley Alfalfa Mill Co., a corporation trading at Rupert, Idaho, alleging shipment by said company in violation of the Food and Drugs Act, on or about August 26, 1936, from the State of Idaho into the State of Wisconsin, of a quantity of alfalfa meal which was misbranded. The article was labeled in part: (Tag) "Pecos Special * * * Alfalfa Meal * * * Made by the Pecos Valley Alfalfa Mill Co., Hagerman, New Mexico."

It was alleged to be misbranded in that the statements on the tag, "Alfalfa Meal Made from Alfalfa Hay" and "Guaranteed Analysis, Protein 13.0% * * * Fat 1.5% * * * Fiber 33.0%," were false and misleading and were borne on the tag so as to deceive and mislead the purchaser, since they represented that the article was alfalfa meal made from alfalfa hay and that it contained not less than 13.0 percent of protein, not less than 1.5 percent of fat, and not more than 33.0 percent of fiber; whereas the article was not alfalfa meal made from alfalfa hay since it contained excessive alfalfa stems and it contained not more than 11.56 percent of protein, not more than 1.40 percent of fat, and not less than 38.65 percent of fiber.

On January 10, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $30.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28487. Adulteration of dressed poultry. U. S. v. Worthington Creamery & Produce Co. Plea of guilty. Fine, $25. (F. & D. No. 39483. Sample No. 26155–C.)

Samples of this product were found to be emaciated, diseased, or decomposed.

On June 8, 1937, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Worthington Creamery & Produce Co., a corporation, Worthington, Minn., alleging shipment by said company in violation of the Food

and Drugs Act, on or about December 1, 1936, from the State of Minnesota into the State of Illinois, of a quantity of dressed poultry which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On January 18, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28488. Adulteration of maple sirup. U. S. v. 1 Drum of Maple Sirup. Default decree of condemnation and destruction. (F. & D. No. 39596. Sample No. 20803–C.)

This product contained excessive lead.

On May 14, 1937, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one drum of maple sirup at Rutland, Vt., alleging that the article had been shipped in interstate commerce on or about April 22, 1937, from Merriam, N. Y., by G. J. Barnaby, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On January 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28489. Adulteration of maple sirup. U. S. v. 2 Drums of Maple Sirup. Decree ordering product released under bond for deleading. (F. & D. No. 39645. Sample No. 21110–C.)

This product contained excessive lead.

On May 25, 1937, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two drums of maple sirup at Rutland, Vt., alleging that the article had been shipped in interstate commerce on or about April 27, 1937, from Cattaraugus, N. Y., by W. H. Lincoln, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On January 17, 1938, the G. H. Grimm Co., Rutland, Vt., claimant, having admitted the allegations of the libel and having petitioned the release of the product, the article was ordered released under bond conditioned that it be deleaded in order to remove the injurious ingredient.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28490. Adulteration of apples. U. S. v. 25 Bushels and 31 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40734. Sample No. 59488–C.)

This product was contaminated with arsenic and lead.

On October 6, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 bushels of apples at Joliet, Ill., alleging that the article had been shipped in interstate commerce, on or about September 30, 1937, from Fennville, Mich., by Edmund Ongena, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 13, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28491. Adulteration of flour. U. S. v. 600 Bags of Flour. Consent decree of condemnation. Product released under bond to be denatured. (F. & D. No. 40745. Sample No. 22515–C.)

This product was infested with weevils.

On November 16, 1937, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 600 bags of flour at Tampa, Fla., alleging that the article had been shipped in interstate commerce, on or about May 4, 1937, from Minneapolis, Minn., by the Commander Milling Co., Minneapolis, Minn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Commander Milling Co., General Offices Minneapolis, Minn."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 29, 1938, Jose Franquiz & Co., Tampa, Fla., claimant, having admitted the allegations of the libel and having petitioned release of the product, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be denatured and disposed of according to law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28492. Misbranding of candy. U. S. v. 13 Cases and 18 Boxes of Candy. Default decree of condemnation. Product ordered distributed to charitable institutions. (F. & D. No. 40841. Sample Nos. 61950–C, 62081–C.)

This product was short weight.

On November 16, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cases and 18 boxes of candy at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about November 2, 1937, by San-Man Chocolate Co. from Boston, Mass., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Virginia Lawton Chocolates One Pound Net Virginia Lawton Chocolates Co., Boston, Mass."

It was alleged to be misbranded in that the statement "One Pound Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight, and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On December 20, 1937, no claimant having appeared, judgment of condemnation was entered. On January 4, 1938, the product was ordered distributed among charitable institutions.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28493. Adulteration and misbranding of lemon juice. U. S. v. 21 and 93 Cases of Alleged Lemon Juice. Judgment releasing product for relabeling. (F. & D. No. 38956. Sample No. 31229–C.)

This product was diluted with water and contained added acid, but was represented to be pure lemon juice. Moreover, a portion of it was short in volume, and its labeling bore false and fraudulent representations regarding its curative and therapeutic effects.

On January 23, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 114 cases of alleged lemon juice at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about September 25, 1936, from Los Angeles, Calif., by General Food Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Golden Flow Brand Pure Lemon Juice * * * Contents 15 Fl. Oz. [or "8 Fl. Oz."] * * * Pure Foods Corp., Los Angeles, Calif."

It was alleged to be adulterated in that it had been mixed and packed so as to reduce and lower its quality and in a manner whereby its inferiority was concealed; and in that a mixture of lemon juice, water, and acid had been substituted for pure lemon juice, which it purported to be.

The article was alleged to be misbranded in that the design of lemons and a glass of what apparently was lemon juice, and the statements, "Lemon Juice" and "Pure Lemon Juice," borne on the label, were false and misleading and tended to deceive and mislead the purchaser as applied to lemon juice diluted with water and containing added acid; in that it was an imitation of and was offered for sale under the distinctive name of another article, pure lemon juice; and in that the statements, "An aid to Beauty, Health of Skin and Scalp, when Applied Externally * * * Repels nerve inflammation, of Special Value in Southern Climates to Combat Disease," appearing on the labels, falsely and fraudulently represented the curative and therapeutic effects of the article. The product in the 8-ounce cans was alleged to be misbranded further in that it was

food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On January 18, 1938, the Western States Grocery Co., Butte, Mont., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, the product was ordered released under bond for relabeling.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28494. Adulteration of flour. U. S. v. 16 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 40685. Sample No. 22513–C.)

This product was infested with insects.

On November 9, 1937, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 bags of flour at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about October 13, 1936, from Pendleton, Oreg., by the Western Milling Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Soft Wheat Oregold Patent Flour * * * Western Milling Company Pendleton Oregon."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28495. Adulteration of frozen shrimp. U. S. v. 44 Boxes of Frozen Shrimp. Default decree of condemnation and destruction. (F. & D. No. 42014. Sample No. 14333–D.)

This product was in part decomposed.

On March 10, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 44 boxes of frozen shrimp at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about March 8, 1938, by Commonwealth Ice & Cold Storage from Boston, Mass., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28496. Adulteration of butter. U. S. v. 10 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 42169. Sample No. 11799–D.)

This product contained less than 80 percent of milk fat.

On April 1, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 22, 1938, by Veblen Home Creamery, from Veblen, S. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On April 13, 1938, Veblen Home Creamery, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be reworked so that it contain at least 80 percent of butterfat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28497. Misbranding of honey. U. S. v. 15 Dozen Jars of Honey. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41628. Sample No. 798–D.)

This product was short weight.

On February 8, 1938, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in

the district court a libel praying seizure and condemnation of 15 dozen jars of honey at Spartanburg, S. C., alleging that the article had been shipped in interstate commerce on or about July 7, 1937, by F. R. Jordan from Wilmington, N. C., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Pure Carolina Honey Net Wt. 22 Oz. F. R. Jordan, Wilmington, N. C."

It was alleged to be misbranded in that the statement "Net Wt. 22 Oz." was false and misleading and tended to deceive and mislead the purchaser since the jars contained less than 22 ounces, and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On April 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28498. Misbranding of olive oil. U. S. v. Lucca Olive Oil Co., Inc. Plea of nolo contendere. Fine, $52. (F. & D. No. 39792. Sample Nos. 32887–C, 32889–C, 33162–C to 33165–C, incl., 37935–C, 37938–C.)

This product was short of the volume declared on the labels.

On November 22, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lucca Olive Oil Co., Inc., trading at Lindsay, Calif., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about March 2, 17, and 31 and May 7, 1937, from the State of California into the States of New York, Oregon, and Washington, of quantities of olive oil which was misbranded. Portions of the article were labeled in part: "Gold Deer Brand Pure Olive Oil Manufactured and Packed by Lucca Olive Oil Co. Lucca, Cal. * * * Contents 1 Gallon [or "½ Gallon" or "1 Quart"]." The remainder was labeled: "Lucca Olive Oil * * * 1/16 Gallon."

The article was alleged to be misbranded in that the statements, "Contents 1 Gallon," "½ Gallon," "1 Quart," and "1/16 Gallon," were false and misleading and were borne on the cans so as to deceive and mislead the purchaser since the cans contained less than the amounts declared; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On December 3, 1937, a plea of nolo contendere was entered in behalf of the defendant, and it was sentenced to pay a fine of $52.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28499. Adulteration of frozen raspberries. U. S. v. 120 Barrels of Frozen Raspberries. Decree of condemnation. Product released under bond. (F. & D. No. 40385. Sample No. 58611–C.)

A portion of this product was infested with insects.

On September 27, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 120 barrels of frozen raspberries at Philadelphia, Pa., consigned by L. G. Haviland & Son, alleging that the article had been shipped in interstate commerce on or about August 20, 1937, from Highland, N. Y., by L. G. Haviland & Son, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 4, 1938, L. G. Haviland & Sons having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it not be disposed of contrary to law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28500. Adulteration of crab meat. U. S. v. 127 Cans of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 40524. Sample No. 45115–C.)

This product was in part decomposed.

On October 20, 1937, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 127 cans of crab meat at Oakland, Calif., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from North Bend, Oreg., by the Oregon Sea Foods Co., and charging adulteration in violation of the Food and Drugs

Act. The article was labeled in part: "From Oregon Sea Foods Co. * * * Charleston, Ore."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28501. Adulteration of clam nectar. U. S. v. 80 Cases of Clam Nectar. Default decree of condemnation and destruction. (F. & D. No. 40577. Sample No. 63416–C.)

This product was in whole or in part decomposed.

On October 25, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 cases of clam nectar at Seattle, Wash., alleging that the article had been shipped in interstate commerce from Ketchikan, Alaska, by M. E. Lane on or about January 20, 1936, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Pure Clam Nectar Packed by Lane Brothers, Ketchikan, Alaska."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On January 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28502. Adulteration of evaporated apples. U. S. v. 184 Cases of Evaporated Apples. Consent decree of condemnation. Product released under bond. (F. & D. No. 40578. Sample No. 62826–C.)

This product was in part moldy, dirty, decomposed, and worm-infested.

On October 25, 1937, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 184 boxes of evaporated apples at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about October 3, 1937, from Bentonville, Ark., by the Blocher Evaporator Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sulphur Bleach Evaporated Apples Packed by J. W. Blocher, Bentonville, Arkansas."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 13, 1937, the Blocher Evaporator Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28503. Adulteration and misbranding of imitation lemon flavor. U. S. v. 19 Dozen Bottles of Imitation Lemon Flavor. Default decree of condemnation and destruction. (F. & D. No. 41508. Sample No. 809–D.)

This product contained about 15 percent of diethylene glycol, a poison.

On January 24, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 dozen bottles of imitation lemon flavor at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about December 23, 1936, from Chicago, Ill., by Talman & Millard, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tea Room Brand Imitation Lemon Flavor * * * Talman and Millard Chicago, Ill."

It was alleged to be adulterated in that a product containing a poisonous substance, a glycol, had been substituted in whole or in part for imitation lemon flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient which might have rendered it injurious to health.

Misbranding was alleged in that the statements borne on the label, "Imitation Lemon Flavor * * * For Ice Cream, Cakes, Ices, Icings, Pastries, Candies, Etc.," were false and misleading and tended to deceive and mislead the purchaser as applied to an article containing a glycol, a poison; and in that it was offered for sale under the distinctive name of another article, imitation lemon flavor.

On March 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28504. Adulteration and misbranding of Solvex. U. S. v. 1 Can of Solvex. Default decree of condemnation and destruction. (F. & D. No. 41292. Sample No. 64014–C.)

This product was carbitol, a commercial solvent composed of a glycol or a glycol ether, a poison.

On December 30, 1937, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one can of Solvex at Spokane, Wash., alleging that the article had been shipped in interstate commerce on or about November 7, 1937, from Los Angeles, Calif., by Pacific Commercial Warehouse, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted wholly or in part for Solvex, a food-flavor solvent, which the article purported to be.

It was alleged to be misbranded in that it was offered for sale under the distinctive name of another article, Solvex, a food-flavor solvent.

On February 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28505. Adulteration and misbranding of lime punch and orange punch. U. S. v. 24 Dozen Bottles of Lime Punch and 26 Dozen Bottles of Orange Punch. Consent decree of condemnation and destruction. (F. & D. Nos. 41356, 41357. Sample Nos. 60828–C, 60829–C.)

These products were labeled to indicate that they were fruitade bases; whereas they consisted of artificially colored and flavored citric-acid solutions containing little, if any, fruit juice.

On January 8, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 dozen bottles of lime and of orange punch concentrate at Denver, Colo., consigned by Lochhead Manufacturing Co., St. Louis, Mo., alleging that the articles had been shipped in interstate commerce on or about June 12 and July 29, 1936, from St. Louis, Mo., and charging adulteration and misbranding in violation of the Food and Drugs Act. They were labeled in part: "Tru Value Lime [or "Orange"] Punch Concentrate Lochhead Mfg. Co. Saint Louis."

The articles were alleged to be adulterated in that artificially colored and flavored citric-acid solutions, containing little, if any, fruit juice had been substituted in whole or in part for orange or lime juice; and in that they were mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements, "Lime [or "Orange"] * * * Punch Concentrate," were false and misleading and tended to deceive and mislead the purchaser when applied to these products.

On January 24, 1938, the Lockhead Manufacturing Co., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28506. Adulteration of imitation flavors. U. S. v. 1 Bottle of Imitation Flavor, et al. Default decree of condemnation and destruction. (F. & D. Nos. 40714, 40715, 40716. Sample Nos. 50341–C, 50342–C, 50344–C.)

These products contain diethylene glycol, a poison.

On November 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three bottles of imitation flavors at Chicago, Ill., alleging that the articles had been shipped in interstate commerce on or about June 19 and September 24, 1937, from Battle Creek, Mich., by the R. W. Snyder Co., and charging adulteration in violation of the Food and Drugs Act. They were labeled in part: "Snyder's Superior Imitation Peach [or "Pineapple" or "Raspberry"] Flavor for Hard Candy R. W. Snyder Co. Battle Creek, Michigan."

They were alleged to be adulterated in that they contained an added poisonous and deleterious ingredient, diethylene glycol, which might have rendered them harmful to health.

On January 7, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28507. Adulteration and misbranding of imitation rum flavor. U. S. v. Two 1-Gallon Jugs, et al., of Imitation Rum Flavor. Consent decree of condemnation and destruction. (F. & D. Nos. 41088, 41089. Sample Nos. 53230–C, 53231–C.)

This product contained ethylene glycol, a poison.

On or about December 17, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 4¾ gallons of imitation rum flavor at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about October 26, 1937, by Charles Dennery, Inc., from New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Jugs) "Chas. Dennery Inc., * * * Imitation Rum Flavor, New Orleans, Dallas."

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient, ethylene glycol, which might have rendered it injurious to health; and in that a product containing ethylene glycol, a poison, had been substituted wholly or in part for the article.

It was alleged to be misbranded in that the label on the jug was false and misleading and tended to deceive and mislead the purchaser.

On December 28, 1937, Charles Dennery, Inc., having consented to the entry of a decree, the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28508. Adulteration and misbranding of tomato puree and misbranding of tomato sauce. U. S. v. 70 Cases of Tomato Puree and 146 Cases of Tomato Sauce. Decrees of condemnation. Products released under bond for relabeling. (F. & D. Nos. 40299, 40300. Sample Nos. 53415–C, 53416–C.)

The tomato puree was deficient in tomato solids and both products were short weight.

On September 20, 1937, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 70 cases of tomato puree and 146 cases of tomato sauce at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about July 25 and August 25 and 27, 1937, from New Iberia, La., by B. F. Trappey's Sons, Inc., and charging adulteration and misbranding of the tomato puree and misbranding of the tomato sauce in violation of the Food and Drugs Act. The articles were labeled respectively: "Trappey's Shield Label Spanish Style Tomato Sauce * * * Contents 8 Ozs."; "Trappey's Shield Label Brand Tomato Puree * * * Contents 4¾ Oz." Both products were labeled: "B. F. Trappey's Sons, Inc., Lafayette, La."

The tomato puree was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for tomato puree, which the article purported to be. It was alleged to be misbranded in that the statements "Tomato Puree * * * Puree di Pomidoro" were false and misleading and tended to deceive and mislead the purchaser as applied to an article deficient in tomato solids.

Both products were alleged to be misbranded in that the statements "Contents 4¾ Oz." and "Contents 8 Ozs.," borne on the cans, were false and misleading and tended to deceive and mislead the purchaser since the cans contained less than the amounts declared; and in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On January 26, 1938, B. F. Trappey's Sons, Inc., claimant, having admitted that the products were misbranded, judgments of condemnation were entered and the products were ordered released under bond conditioned that they be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28509. Adulteration of canned field peas with snaps. U. S. v. 498 Cases of Canned Field Peas with Snaps (and one other seizure of the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 40604, 40677. Sample Nos. 43662–C, 43663–C.)

One lot of this product was infested with weevils, and the other lot was infested with larvae and affected with anthracnose.

On or about October 28 and November 17, 1937, the United States attorney for the Southern District of Florida, acting upon reports by the Secretary of Agri-

culture, filed in the district court libels praying seizure and condemnation of 498 cases of canned field peas with snaps at Sanford, Fla., and 62 cases of the product at Palatka, Fla., alleging that the article had been shipped in interstate commerce on or about July 20 and 24, 1937, from Mitchell, Ga., the former in the name of R. O. Kelley and the latter in the name of the R. O. Kelley Cannery, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Kelley's Best * * * Packed by R. O. Kelley Mitchell, Ga."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 2, 1937, and January 11, 1938, no claimant having appeared, judgments of condemnation and forfeiture, with orders of destruction, were entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28510. Adulteration and misbranding of Raspberry Flow and misbranding of apricot juice. U. S. v. 35 Cases of Raspberry Flow (and 2 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 40515, 40516, 40712. Sample Nos. 10563–C, 41067–C, 41068–C.)

The former of these products was labeled to indicate that it was fresh raspberry juice; whereas it consisted of an aqueous infusion of dried raspberries slightly sweetened; the latter was a diluted slightly sweetened apricot pulp and was labeled to indicate that it was pure apricot juice. The labeling of the latter was also objectionable because of false and fraudulent curative and therapeutic claims for the product and failure to declare the quantity of contents in a plain and conspicuous manner.

On or about October 20 and November 15, 1937, the United States attorney for the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 35 cases of Raspberry Flow and 170 cases of apricot juice at Houston, Tex., alleging that the articles had been shipped in interstate commerce on or about July 23 and October 21, 1937, from Los Angeles, Calif., by Pure Foods Corporation, and charging adulteration and misbranding of the former and misbranding of the latter in violation of the Food and Drugs Act as amended. The apricot juice was labeled in part: "Golden Flow Brand Pure Apricot Juice * * * Contents 15 Fl. Oz." An attempt had been made to change the figure "15" in the quantity of contents statement to "12" by pencil, but the "15" was still conspicuous and the "12" illegible. The Raspberry Flow was labeled: "Golden Flow Brand Raspberry Flow." Both products were labeled further: "Pure Foods Corp. Los Angeles, California."

The Raspberry Flow was alleged to be adulterated in that a sweetened aqueous infusion of dried raspberries had been substituted for fresh raspberry juice, which it purported to be. It was alleged to be misbranded in that the statements, "Raspberry Flow * * * The New Fruit Juice Beverage * * * The juice and pulp of genuine raspberries—water-sweetened," and the design of fresh raspberries and juice flowing out of a cornucopia were false and misleading and tended to deceive and mislead the purchaser as applied to a sweetened aqueous infusion of dried raspberries.

The apricot juice was alleged to be misbranded in that the statement "Pure Apricot Juice" and the design of juice flowing out of a cornucopia into a glass were false and misleading and tended to deceive and mislead the purchaser as applied to apricot pulp containing added water and sugar; in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct; and in that statements appearing on the label, "creating vigor, vitality and digestion * * * neutralizing body wear" were statements regarding the curative or therapeutic effects of the article and were false and fraudulent.

On December 23, 1937, and January 7, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28511. Adulteration and misbranding of fruit flavors. U. S. v. 10 Cases, 7 Cases, and 28 Bottles of Lionel True Fruit Flavors. Default decrees of condemnation and destruction. (F. & D. Nos. 39982, 40024. Sample Nos. 20941–C, 20942–C, 21184–C, 21185–C, 21186–C.)

These products were labeled to indicate that they were true fruit flavors, whereas they consisted of mixtures of artificially colored acid solutions and

contained little or no fruit juices; the raspberry contained glycerin and artificial flavor, and the orange and the lemon and lime contained citrus-oil flavors. All products were short in volume.

On July 17 and August 2, 1937, the United States attorneys for the Districts of Maine and Connecticut, acting upon reports by the Secretary of Agriculture, filed in their district courts libels praying seizure and condemnation of 10 cases of fruit flavors at Augusta, Maine, and 7 cases and 28 bottles of fruit flavors at Norwich, Conn., alleging that the articles had been shipped in interstate commerce on or about April 24 and July 8, 1937, by Tyler Products Co., from Pawtucket, R. I., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: (Bottles) "Lionel True Fruit Raspberry [or "Orange" or "Lemon & Lime"] Flavor Pure Food Color * * * Tyler Products Co Pawtucket, R. I. 1¾ Oz."

The articles were alleged to be adulterated in that artificially colored acid solutions containing little or no fruit juices—the orange and the lemon and lime containing citrus-oil flavor, and the raspberry containing artificial flavor and glycerin—had been substituted for orange, lemon and lime, and raspberry fruit flavors, which they purported to be, and in that they had been mixed and colored in a manner whereby inferiority was concealed.

They were alleged to be misbranded in that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser as applied to products of the composition found and which were short in volume, "True Fruit Raspberry [or "Orange" or "Lemon & Lime"] Flavor" and "1¾ Oz."; they were alleged to be misbranded further in that they were imitations of other articles, namely, orange, lemon and lime, and raspberry fruit flavors. They were alleged to be misbranded further in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages since the quantity stated was not correct.

On August 11 and November 30, 1937, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28512. Misbranding of canned cherries. U. S. v. 72 Cases of Canned Cherries (and 2 other seizure actions against the same product). Decrees of condemnation. Portion of product released under bond for relabeling; remainder destroyed. (F. & D. Nos. 40871, 40888, 41977. Sample Nos. 60558–C, 60569–C, 3362–D.)

This product was substandard because it contained an excessive number of pits and it was not labeled to indicate that it was substandard.

On November 19 and 20, 1937, and March 18, 1938, the United States attorney for the District of New Mexico, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 72 cases of canned cherries at Albuquerque, 24 cases at Las Vegas, and 14 cases at Raton, N. Mex., alleging that the article had been shipped in interstate commerce on or about September 13, 21, and 22, 1937, and January 22, 1938, from Delta, Colo., by Delta Canning Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Town Talk * * * Water Pack R. S. P. Cherries * * * Packed for The Stone-Hall Co., Denver, Colo."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than one cherry pit per each 20 ounces of net contents and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 20 and 22, 1937, the Delta County Canning Co., having filed a claim for the lots seized at Albuquerque and Las Vegas, N. Mex., and having consented to the entry of decrees, judgments of condemnation were entered and the said lots were ordered released under bond conditioned that they be relabeled. On April 18, 1938, no claim having been entered for the lot seized at Raton, N. Mex., the product was condemned and ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28513. Adulteration of apples. U. S. v. 121 Boxes of Apples. Default decree of condemnation and destruction. (F. & D. No. 40882. Sample No. 67603–C.)

This product was contaminated with arsenic and lead.

On November 2, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 121 boxes of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about October 14, 1937, by Horan Bros. from Wenatchee, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Grown by M. Francies Wenatchee, Wash."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On January 31, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28514. Misbranding of onions. U. S. v. 500 Sacks of Yellow Onions. Decree of condemnation. Product released under bond for resacking and relabeling. (F. & D. No. 41544. Sample No. 16802–D.)

This product was below the standard declared on the label.

On January 27, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 sacks of onions at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce on or about January 19, 1938, by Geo. W. Haxton & Son, Inc., from Oakfield, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement "Haxto, U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser, since the article was not of U. S. No. 1 Commercial Standard but was below the said standard, since 11 percent of the onions were less than 1½ inches in diameter and only 20 percent were 2 inches and larger in diameter; whereas U. S. No. 1 Standard requires a minimum size of 1½ inches with a tolerance of only 5 percent for undersize and requires that not less than 40 percent be 2 inches or larger.

On January 29, 1938, Geo. W. Haxton & Son, Inc., having appeared as claimant, judgment of condemnation was entered and it was ordered that the product be released conditioned that it be resacked and relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28515. Adulteration of frozen peas. U. S. v. 99 Cartons of Frozen Peas. Default decree of condemnation and destruction. (F. & D. No. 40885. Sample No. 57504–C.)

Samples of this product were found to be weevil-infested.

On November 19, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cartons of frozen peas at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about August 28, 1937, by M. Nakata Food Products, Inc., from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Edelweiss Jumbo Fresh Frozen Peas, John Sexton & Co. Distributors Chicago-Brooklyn."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28516. Adulteration of shelled walnuts. U. S. v. 9 Cartons of Shelled Walnuts. Default decree of condemnation and destruction. (F. & D. No. 40999. Sample No. 60583–C.)

Samples of this product were found to be wormy.

On December 2, 1937, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cartons of shelled walnuts at Salt Lake City, Utah, alleging that the article had been shipped in interstate

commerce on or about October 30, 1937, by Torn & Glasser Co. from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 29, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28517. Adulteration of walnut meats and black walnuts. U. S. v. 63 Cases of Walnut Meats (and two other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 40992, 41000, 41035. Sample Nos. 55235, 60579–C, 60588–C.)

Samples taken from the walnut meats were found to be wormy and moldy; and those taken from the black walnuts were found to be moldy, rancid, and decomposed.

On December 2, 3, and 9, 1937, the United States attorneys for the District of Utah and the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 72 cases of walnut meats at Salt Lake City, Utah, and 124 bags of black walnuts at Boston, Mass., alleging that the articles had been shipped in interstate commerce on or about March 22, July 19, and October 19, 1937, by the L. Demartini Co. from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. A portion of the walnut meats were labeled in part: "West Owl California Shelled Walnuts * * * Packed By The L. Demartini Co., San Francisco, Calif."

The articles were alleged to be adulterated in that they consisted wholly or in part of filthy vegetable substances.

On January 29 and February 14, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28518. Adulteration and misbranding of olive oil. U. S. v. 9 Cases of Oil. Default decree of condemnation and destruction. (F. & D. No. 40989. Sample No. 65439–C.)

This product consisted of cottonseed oil with possibly some corn oil, but it was labeled to convey the impression that it was olive oil; and this impression was not corrected by the inconspicuous declaration "Corn Oil."

On December 1, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cases of oil at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about November 15, 1937, by P. Santo from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "La Gustosa Brand."

It was alleged to be adulterated in that a mixture of cottonseed oil and corn oil had been substituted wholly or in part for olive oil, which the labeling indicated it to be.

It was alleged to be misbranded in that the statements on the label, "Prodotto Garantito Olio Finissimo * * * Prodotto Garantito Extra Fine Oil," were misleading and tended to deceive and mislead the purchaser when applied to a mixture of cottonseed and corn oil, since to purchasers of Italian lineage the term "Olio" means olive oil, and this misleading impression was not corrected by the indistinct rubber stamp "Corn Oil" which appeared on one panel of the can.

On January 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28519. Adulteration and misbranding of vanilla flavor. U. S. v. 276 Bottles and 288 Bottles of Vanilla Flavor. Default decree of condemnation and destruction. (F. & D. No. 41207. Sample No. 55258–C.)

This product was represented to be vanilla flavor; whereas it was an imitation vanilla flavor, artificially flavored and colored, which contained about 8 percent of isopropyl alcohol.

On December 22, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the dis-

trict court a libel praying seizure and condemnation of 564 bottles of vanilla flavor at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about November 17, 1937, from Boston, Mass., by the Roma Extract Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Preferred Quality Products Vanilla Flavor * * * Distributed by Preferred Products Co. Providence, R. I."

The article was alleged to be adulterated in that an artificially flavored and colored product containing isopropyl alcohol had been substituted in whole or in part for vanilla flavor, which it purported to be.

Misbranding was alleged in that the statement "Vanilla Flavor" was false and misleading and tended to deceive and mislead the purchaser when applied to this article; and in that it was an imitation of and was offered for sale under the distinctive name of another article, namely, "Vanilla Flavor."

On January 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28520. Adulteration and misbranding of imitation vanilla flavor. U. S. v. 10 Cases of Imitation Vanilla Flavor. Default decree of condemnation and destruction. (F. & D. No. 41063. Sample No. 57526–C.)

This product contained a poison—a glycol or a glycol ether, or both.

On or about December 10, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of imitation vanilla flavor at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about September 28, 1937, by Fred Fear & Co. from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gold Medal Imitation Vanilla Flavor * * * Fred Fear & Co. Brooklyn, N. Y."

The article was alleged to be adulterated in that a substance containing a glycol or a glycol ether, a poison, had been substituted in whole or in part for imitation vanilla flavor, a food flavor, which it purported to be.

Misbranding was alleged in that the statement borne on the label, "Imitation Vanilla Flavor," was false and misleading and tended to deceive and mislead the purchaser as applied to the article; and in that it was offered for sale under the distinctive name of another article, imitation vanilla flavor.

On February 3, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28521. Adulteration and misbranding of vanilla flavoring compound. U. S. v. 78 Bottles of Flavoring Compound. Default decree of condemnation and destruction. (F. & D. No. 41266. Sample No. 21086–C.)

This product was an artificially colored and flavored imitation vanilla extract; and it contained approximately 5 percent of carbitol, a solvent composed of a poison—a glycol or a glycol ether, or both.

On December 27, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 78 bottles of flavoring compound at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about November 6, 1937, from Pawtucket, R. I., by Tyler Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Flavoring Compound * * * Distributed By The Cunningham Tea Company Worcester, Mass."

It was alleged to be adulterated in that imitation vanilla extract, containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for flavoring compound, a food flavor, which the article purported to be.

Misbranding was alleged in that the statements, "Flavoring Compound" and "For Flavoring Ice Cream, Puddings, Cakes, Sauces, Etc.," were false and misleading and tended to deceive and mislead the purchaser as applied to an imitation vanilla extract containing a glycol or glycol ether, or both, poisons; and in that it was an imitation of another article, vanilla extract.

On January 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28522. Adulteration and misbranding of imitation toffee flavor. U. S. v. One Gallon Bottle of Toffee Flavor, Imitation. Default decree of condemnation and destruction. (F. & D. No. 41527. Sample No. 9225–D.)

This product contained about 50 percent of carbitol, a solvent composed of a poison, namely, a glycol or a glycol ether, or both.

On January 25, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one gallon bottle of imitation toffee flavor at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about October 26, 1937, from Long Island City, N. Y., by Polak's Frutal Works, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Polak's Frutal Works, Amersfoort, Holland * * * Toffee Flavor Imitation."

The article was alleged to be adulterated in that an article containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted wholly or in part for imitation toffee flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

Misbranding was alleged in that the statement "Toffee Flavor Imitation" was false and misleading and tended to deceive and mislead the purchaser as applied to an article containing a glycol or a glycol ether, or both, which are poisons; and in that it was offered for sale under the distinctive name of another article.

On March 10, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28523. Adulteration and misbranding of beverage flavors. U. S. v. 7 Pint Bottles of Beverage Flavors, et al. Default decree of condemnation and destruction. (F. & D. Nos. 41274, 41457, 41458. Sample Nos. 38471–C, 71061–C, 71062–C.)

This product contained a poison, namely, a glycol or a glycol ether, or both.

On December 28, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure of 11 pint bottles of beverage flavors at Newark, N. J. On January 18, 1938, a libel was filed against 13 dozen 1-ounce bottles of beverage flavors at Philadelphia, Pa. The libels alleged that the articles had been shipped in interstate commerce on various dates between January 17, 1935, and October 7, 1937, from New York, N. Y., by W. Sheinker & Son, Inc., and charged adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Green Ribbon * * * Rye Flavor [or other flavors] Green Ribbon Extract Co. New York, N. Y."

They were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for beverage flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the statements on the labels, "Flavor * * * Rye [or "Creme de Cacao," "Bernardino," "Anisette," "Apricot," "Rum," "Anisone," "Gin," or "Vermouth"]," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that they were offered for sale under the distinctive names of other articles, beverage flavors.

On February 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture*

28524. Adulteration and misbranding of vanilla, vanillin, and coumarin flavor. U. S. v. 1 Gallon Jug and 6 Gallon Jugs of Vanilla, Vanillin, and Coumarin Flavor. Default decrees of condemnation and destruction. (F. & D. Nos. 41377, 41417. Sample Nos. 64576–C, 56747–C.)

This product contained diethylene glycol, a poison.

On January 11, 1938, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one gallon jug of the above-

named product at Des Moines, Iowa. On January 14, 1938, a libel was filed against six gallon jugs of the same product at New York, N. Y. The libels alleged that the article had been shipped in interstate commerce on or about August 23 and December 11, 1937, from Quincy, Ill., by the Flava Manufacturing Co., Quincy, Ill., in violation of the Food and Drugs Act. The article was labeled in part: "Manufactured By Flava Mfg. Co., Not Inc. Quincy, Illinois."

It was alleged to be adulterated in that an imitation vanilla flavor containing a glycol, a poison, had been substituted in whole or in part for a food flavor, which it purported to be.

Misbranding was alleged in that the statement on the label, "Containing Vanilla, Vanillin, Coumarin, Vegetable Gum and Chemically Pure Glycerine," was false and misleading and tended to deceive and mislead the purchaser since it implied that glycerin was the only solvent, whereas the article contained diethylene glycol, a poison; in that the statement "Vanilla, Vanillin and Coumarin Flavor" was false and misleading and tended to deceive and mislead the purchaser as applied to an imitation vanilla flavor containing a glycol, a poison; and in that it was an imitation of another article, vanilla flavor.

On February 2 and March 24, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28525. Adulteration of candy. U. S. v. 24 Boxes and 41 Boxes of Candy. Default decrees of condemnation and destruction. (F. & D. Nos. 40958, 41005. Sample Nos. 50528–C, 61148–C.)

Samples of this product were found to contain rodent hair and evidence of insect infestation.

On November 30 and December 3, 1937, the United States attorneys for the Southern District of Mississippi and the Northern District of Alabama, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 24 boxes of candy at Biloxi, Miss., and 41 boxes of candy at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about November 5, 6, and 8, 1937, by the Primrose Candy Co. from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Jungle King Kraut, Primrose Candy Co., New Orleans, La."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 5 and March 2, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

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U. S. GOVERNMENT PRINTING OFFICE: 1938

N. J., F. D. 28526–28675 Issued September 1938

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28526–28675

[Approved by the Acting Secretary of Agriculture, Washington, D. C., July 30, 1938]

28526. Adulteration of canned blackberries, canned huckleberries, and blackberry preserves. U. S. v. National Fruit Canning Co. Plea of guilty. Fine, $303 and costs. (F. & D. No. 39759. Sample Nos. 23974–C, 32643–C, 32651–C, 36131–C, 36153–C.)

The blackberries and blackberry preserves contained excessive mold, and the huckleberries contained evidence of insect and worm infestation.

On December 28, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the National Fruit Canning Co., a corporation, Seattle, Wash., alleging that on or about October 31, 1936, the said defendant sold and delivered to the G. P. Halferty Co., Seattle, Wash., a quantity of canned blackberries under a guaranty that the article was not adulterated or misbranded within the meaning of the Food and Drugs Act, and that on or about November 2, 1936, it was shipped by the purchaser in the identical condition as when so sold and delivered, from the State of Washington into the State of Idaho; that on or about November 18, 1936, the defendant sold and delivered to the Rogers Co., Seattle, Wash., a quantity of blackberry preserves under a guaranty that the article conformed to the requirements of the Food and Drugs Act; and that on or about December 21, 1936, the purchaser shipped the said article in the identical condition as when so sold and delivered, from the State of Washington into the State of Montana; that on or about November 14, 1936, and January 23, 1937, the defendant shipped from the State of Washington into the States of Montana and Idaho, quantities of canned huckleberries and canned blackberries, respectively, and that each of the said products was adulterated in violation of the Food and Drugs Act. The articles were labeled variously in part: "Tastefull Brand * * * Water Pack Blackberries * * * Packed by National Fruit Canning Co., Seattle"; "Real Fruit Brand * * * Blackberries [or "Water Pack Huckleberries"] * * * Packed by National Fruit Canning Co. Seattle, Wash."; "School Boy Brand * * * Pure Blackberry Preserves Distributed By The Rogers Co. Seattle."

The canned blackberries and the blackberry preserves were alleged to be adulterated in that they consisted in whole or in part of filthy, decomposed, and putrid vegetable substances. The canned huckleberries were alleged to be adulterated in that they consisted in whole or in part of a filthy vegetable substance.

On January 17, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $303 and costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28527. Adulteration and misbranding of assorted flavors. U. S. v. 33 Dozen Bottles of Assorted Flavors, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41232, 41245, 41479. Sample Nos. 56275–C, 56736–C, 7865–D, 7867–D.)

These products contained diethylene glycol, a poison; or carbitol, a solvent composed of a glycol or a glycol ether, both of which are poisons.

On December 23, 1937, and January 20, 1938, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of

153⅓ dozen bottles of assorted flavors at Jersey City, N. J., alleging that the articles had been shipped in interstate commerce on various dates between October 31, 1936, and December 2, 1937, from Astoria, N. Y., and New York, N. Y., by Dellia Extract Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part variously: "Calico Chemical Co.—Astoria, L. I."; or "Sanitary Bakery * * * Jersey City, N. J."; or "Dellia Extract Co.—Astoria, L. I."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for beverage flavors or food flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the statement on the labels, "For Non-Alcoholic Beverages" and the designation of the following various flavors, also borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons: (Flavors) Anisette, Gin, Whiskey, Crema di Menta, Centerba, Cannella, Vermouth, Brandy, Cafe Sport, Rosolio, Scotch, Cognac, Rye, Verdolino, Rum, Anesone, Strega, Pineapple, Chartreuse Gialla, Chartreuse Verda, Fernet, Mandarino, Sambuco, Vainiglia, Nocillo, Latte di Vecchia, Corfinio, Caffé Sport, Curacao, Mescolanza, Quattro Compari, Limone, Alkermes, Mandorla, Maraschini, Benedettino, Arancio, Marsala, Brandy, Banana. They were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, beverage flavors and food flavors.

On February 4 and March 23, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28528. Adulteration of flour. U. S. v. 99 Bags, 200 Bags, and 29 Sacks of Flour. Default decrees of condemnation and destruction. (F. & D. Nos. 40890, 40895. Sample Nos. 58001–C, 58002–C.)

This product was weevil-infested.

On or about November 23, 1937, the United States attorney for the Eastern District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 299 bags and 29 sacks of flour at Norfolk, Va., alleging that the article had been shipped in interstate commerce on or about June 12 and October 6, 1936, by Fisher Flouring Mills Co. from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fisher Boy Self-Rising Flour Manufactured for Kent Milling Co. Kent, Wash."; and "Fisher's Whole Wheat Flour Blend Extra Fine * * * Fisher Flouring Mills Company Portland Tacoma Seattle."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 7, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28529. Adulteration and misbranding of macaroni products. U. S. v. 34 Cases of Spaghetti, et al. Default decree of condemnation and destruction. (F. & D. No. 41072. Sample No. 50891–C.)

These products were artificially colored and contained little or no semolina.

On December 14, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 cases of macaroni products at Boise, Idaho, alleging that the articles had been shipped in interstate commerce on or about August 27 and October 6, 1937, by the Seattle Macaroni Manufacturing Co. from Seattle, Wash., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles, with the exception of one lot, were labeled: (Main label) "Tasty Chef Brand Italian Style * * * 100% Durum Semolina Pacific Coast Brands Exclusive Distributors Portland Seattle." The remaining lot was labeled: (Main label) "Tasty Chef Brand Italian Style * * * Fresh Egg Noodles"; (sticker) "Coiled Spaghetti."

The articles were alleged to be adulterated in that they were mixed and colored in a manner whereby inferiority was concealed.

With the exception of one lot, they were alleged to be misbranded in that the statements "100% Durum Semolina" were false and misleading and tended to deceive and mislead the purchaser when applied to articles which contained little or no semolina. The lot labeled on the main label "Fresh Egg Noodles" and on the sticker "Coiled Spaghetti" was alleged to be misbranded in that the statement "Fresh Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to coiled spaghetti, which it purported to be.

On January 6, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28530. Adulteration of tomato puree. U. S. v. 198 Cases of Tomato Puree. Default decree of condemnation and destruction. (F. & D. No. 41078. Sample No. 33936–C.)

This product contained excessive mold.

On December 11, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 198 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, by Ray Bros. & Noble Canning Co. from Hobbs, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sunny Brand Tomato Puree * * * Distributors B. A. Railton Co., Chicago Milwaukee."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed vegetable substance.

On January 6, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28531. Adulteration of tomato puree. U. S. v. 725 Cases of Tomato Puree. Consent decree of condemnation and destruction. (F. & D. No. 41100. Sample No. 33935–C.)

This product contained excessive mold.

On December 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 725 cases of tomato puree at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about September 18, 1937, by the Clamme Canning Co., from Hartford City, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Barco Brand Tomato Puree B. A. Railton Company Chicago Milwaukee."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On January 6, 1938, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28532. Adulteration of currants. U. S. v. 20 Cases of Currants. Default decree of condemnation and destruction. (F. & D. No. 41134. Sample No. 60585–C.)

This product was insect-infested.

On December 17, 1937, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of currants at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about February 15, 1937, by Otzen Packing Co., from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Otzen's Recleaned Grecian Currants."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 29, 1938, no claimant having appeared, judgment of condemnation was entered ordering that the product be destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28533. Misbranding of canned tomatoes. U. S. v. 374 Cases and 209 Cases of Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 41027, 41028. Sample Nos. 47287–C, 47288–C.)

This product was substandard because the tomatoes were not normally colored, and it was not labeled to indicate that it was substandard.

On December 6, 1937, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 583 cases of tomatoes at Middlesboro, Ky., consigned on or about August 20 and September 17, 1937, alleging that the article had been shipped in interstate commerce by R. O. Giles from Tazewell, Tenn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Fairfax Hall Brand * * * Tomatoes Packed For Wholesale Grocers Exchange, Inc. Richmond, Va."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the tomatoes were not normally colored and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that such canned food fell below such standard.

On January 10, 1938, R. O. Giles having appeared as claimant, judgment of condemnation was entered, and the product was ordered released to claimant under bond conditioned that it be relabeled under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28534. Misbranding of canned pears. U. S. v. 218 Cases of Canned Diced Bartlett Pears. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41014. Sample No. 64573–C.)

This product fell below the standard established by this Department because the units were not of uniform size, and it was not labeled to indicate that it was substandard.

On or about December 9, 1937, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 218 cases of canned pears at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about October 20, 1937, by Van Nouhuys & Co., from Campbell, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Diced Tast-Good Brand Bartlett Pears Packed For Empire Distributing Company, St. Louis, Mo."

It was alleged to be misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food since the units were not of uniform size, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 15, 1938, Van Nouhuys & Co. having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

W. R. Gregg, *Acting Secretary of Agriculture.*

28535. Misbranding of canned tomatoes. U. S. v. 157 Cases and 540 Cases of Tomatoes. Portion of product condemned and destroyed; one lot ordered destroyed; remainder released under bond to be relabeled. (F. & D. Nos. 41175, 41176. Sample Nos. 64574–C, 65018–C.)

This product fell below the standard established by this Department because it consisted of tomatoes with puree from trimmings, and it was not labeled to indicate that it was substandard.

On December 17, 1937, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 157 cases of canned tomatoes at St. Louis, Mo., and 540 cases of canned tomatoes at Malden, Mo., alleging that the article had been shipped in interstate commerce on or about July 13 and September 24, 1937, by the Dupont Canning Co., in part from Dupont, Ind., and in part from Kingston, Ind., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Dupont Brand Tomatoes * * * Standard Quality Packed by Dupont Canning Co. Dupont, Ind."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it consisted of tomatoes with puree from trimmings, and the labels did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard, namely, "Tomatoes with puree from trimmings."

On January 8, 1938, no claimant having appeared for the lot seized at St. Louis, judgment of condemnation was entered and it was ordered destroyed. On February 11, 1938, the Dupont Canning Co. having appeared as claimant for the lot seized at Malden, Mo., and having admitted the allegations of the libel, judgment was entered finding the product misbranded and ordering that it be released under bond conditioned that it be relabeled so as to comply with the law.

W. R. GREGG, *Acting Secretary of Agriculture.*

28536. Adulteration and misbranding of food and beverage flavors. U. S. v. 4 Dozen One-Half Ounce Bottles of Cognac (and 14 other seizures of similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 41610, 41612 to 41623, incl., 41739 to 41754, incl., 41765 to 41771, incl., 41816, 41817. Sample Nos. 292–D, 293–D, 295–D, 297–D, 299–D, 300–D, 350–D, 1067–D to 1080–D, incl., 2365–D, 2369–D, 2370–D, 2371–D, 2373–D, 2375–D, 2376–D, 2378–D, 2380–D, 11341–D, 11342–D, 11344–D to 11348–D, incl., 18604–D, 18613–D.)

These products contained from 7 to 75 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons. Some of the products also contained isopropyl alcohol.

On February 7, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 63 dozen bottles of various food and beverage flavors at Pittsburgh, Pa. On or about February 17 and 21, 1938, libels were filed against 38⅔ dozen bottles of similar products at St. Louis, Mo., and 113 dozen bottles at Los Angeles, Calif. The libels alleged that the articles had been shipped in interstate commerce between the dates of August 28, 1936, and January 4, 1938, by the Everbest Products Co. from Brooklyn, N. Y., and that they were adulterated and misbranded in violation of the Food and Drugs Act. The articles were labeled variously: "Ideal Italian Type * * * Rosolio [or other flavor] Everbest Products Company B'klyn [or "New York"]"; "Ideal Italian Extracts * * * Chartreuse Flavor * * *. For Bakery and Confectionery Use Only"; "Cognac [or other] Flavor * * * For Bakery & Confectionery Only."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons—and in certain instances also containing isopropyl alcohol—had been substituted in whole or in part for food and beverage flavors, which they purported to be; and in that they contained added poisonous or deleterious ingredients, a glycol or a glycol ether, or both—and in certain instances isopropyl alcohol, which might have rendered them injurious to health.

Certain of the products were alleged to be misbranded in that the statements on the labels, "Cognac [or "Apricot," "Rosolio," "Creme de Menta," "Rum," "Anesone," "Benedictine," "Strega," "Whiskey," "Anisette," "Verdolino," or "Maraschino"] Flavor * * * For Bakery & Confectionery," were false and misleading when applied to products containing isopropyl alcohol and a glycol or a glycol ether, or both, poisons. The remaining products were alleged to be misbranded in that the following statements on the labels, "Flavor * * * Rosolio [or "Mescolanza," "Creme de Rose," "Jasmine Flavor," "Mandarino," "Perfetto Amore," "Orange," "Latte di Vecchia," "Cognac," "Creme de Menta," "Crema di Cacao," "Benedictine," "Apricot," "Verdolino," or "Mille Fiori," "Creme de Cocoa," "Maraschino," Holland Gin," "Centerbe," "Strawberry," or "Grenadine"]," with respect to certain varieties, and the statements "Extracts * * *. Chartreuse Flavor * * * For Bakery and Confectionery Use Only" with respect to one lot, were false and misleading and tended to deceive and mislead the purchaser when applied to products containing a glycol or a glycol ether, or both, poisons. They were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, food or beverage flavors.

On March 23, March 30, and April 6, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28537. Adulteration and misbranding of imitation vanilla flavor. U. S. v. 20 Cases of Imitation Vanilla Flavor. Consent decree of condemnation and destruction. (F. & D. No. 41054. Sample No. 58239–C.)

This product contained diethylene glycol, a poison.

On December 10, 1937, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of imitation vanilla flavor at Junction City, Kans., alleging that the article had been shipped in interstate commerce on or about November 1, 1937, from Kansas City, Mo., by Geo. W. Hogue Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Clover Leaf Imitation Vanilla Flavor * * * Manufactured by Clover Leaf Mfg. Co., Kansas City, Mo."

The article was alleged to be adulterated in that a product containing diethylene glycol, a poisonous substance, had been substituted in whole or in part for imitation vanilla flavor, which it purported to be.

Misbranding was alleged in that the statements (bottle) "Imitation Vanilla Flavor * * * made from aqua, ethyl, vanillin and coumarin, heliotropin, recrystallized in glycerated sugar syrup and colored with caramel" and (case) "Vanilla," were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing diethylene glycol, a poison.

On January 5, 1938, the claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28538. Adulteration and misbranding of imitation vanilla and lemon flavor. U. S. v. 8 Bottles of Imitation Vanilla Flavor and 10 Bottles of Imitation Lemon Flavor. Default decree of condemnation and destruction. (F. & D. Nos. 41064, 41065. Sample Nos. 66222–C, 66223–C.)

These products contained a poison—a glycol or a glycol ether.

On December 11, 1937, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 bottles of imitation flavors at Petersburg, W. Va., alleging that the articles had been shipped in interstate commerce on or about August 2, 1937, from Petersburg, Va., by Spartan Products Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. They were labeled in part: "Imitation Vanilla [or "Lemon"] Flavor * * * Southern Chemical Co. Manufacturers of Spartan Brand Flavoring Extracts * * * Petersburg, Virginia."

The articles were alleged to be adulterated in that substances containing a glycol or a glycol ether, a poison, had been substituted wholly or in part for imitation vanilla flavor and imitation lemon flavor, food flavors, which they purported to be.

They were alleged to be misbranded in that the statements, "Imitation Vanilla Flavor" and "Imitation Lemon Flavor," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, a poison; and in that they were offered for sale under the distinctive names of other articles.

On January 15, 1938, no claimant having appeared, the products were adjudged to be adulterated and misbranded and were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28539. Adulteration and misbranding of imitation flavors. U. S. v. 2 Gallons of Imitation Fruit Flavors. Default decree of condemnation and destruction. (F. & D. Nos. 41055, 41056. Sample Nos. 65156–C, 65157–C.)

These products contained 60 and 61 percent, respectively, of a glycol or a glycol ether, which are poisons.

On December 9, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 gallons of imitation flavors at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce on or about October 2, 1937, from Guttenberg, N. J., by Polak & Schwarz, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Polak & Schwarz, Inc., New York * * *."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, a poison, had been substituted wholly or in part for con-

centrated imitation peach or strawberry flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, to wit, a glycol or a glycol ether, which might have rendered them harmful to health.

Misbranding was alleged in that the statements, "Concentrated Imitation Peach Flavor" and "Concentrated Imitation Strawberry Flavor," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, a poison.

On January 21, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28540. Adulteration and misbranding of imitation vanilla flavor. U. S. v. 1 Gallon Bottle of Imitation Vanilla Flavor, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 40907, 40984, 41025. Sample Nos. 46697–C, 48445–C, 48446–C, 48447–C.)

This product contained from approximately 28 percent to approximately 64 percent of diethylene glycol, a poison.

On November 23, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one gallon bottle of imitation vanilla at Washington, D. C. On December 1 and 6, 1937, libels were filed against two gallon bottles of the product at Pittsburgh, Pa., and two drums at Baltimore, Md. The libels alleged that the article had been shipped in interstate commerce by Parker Vanilla Products, Inc., in part on or about October 15 and November 1, 1937, from Baltimore, Md., to Pittsburgh, Pa., and Washington, D. C., and in part on or about November 26, 1937, from Washington, D. C., to Baltimore, Md.; and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Parker Vanilla Products, Inc."

It was alleged to be adulterated in that a product containing diethylene glycol, a poison, had been substituted for imitation vanilla, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, diethylene glycol, which might have rendered it injurious to health.

Misbranding was alleged in that the designation, "Imitation Vanilla," was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing diethylene glycol.

On January 4 and 27 and February 15, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28541. Adulteration and misbranding of vanilla. U. S. v. 12 Bottles of Vanilla. Default decree of condemnation and destruction. (F. & D. No. 41401. Sample No. 49586–C.)

This product contained about 30 percent of carbitol, a commercial solvent composed of a glycol or a glycol ether, or both, poisons.

On January 14, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 bottles of vanilla at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 16, 1937, from Cincinnati, Ohio, by the Kroger Grocery & Baking Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ravanco Vanilla."

It was alleged to be adulterated in that an article containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for vanilla, a food flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the statement borne on the label, "Ravanco Vanilla," was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article, a food flavor.

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28542. Adulteration and misbranding of imitation lemon flavoring. U. S. v. 22 Bottles of Imitation Lemon Flavoring, et al. Default decree of condemnation and destruction. (F. & D. No. 41538. Sample No. 511–D.)

This product contained about 5 percent of carbitol, a commercial solvent composed of a glycol or a glycol ether, or both, poisons.

On January 25, 1938, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 430 4-ounce bottles and 433 8-ounce bottles of imitation lemon flavoring at Yakima, Wash., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from Oakland, Calif., by General Food Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Westag Imitation Lemon Flavoring * * * Distributed by General Food Products Co. Oakland—Calif."

The article was alleged to be adulterated in that a product containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for imitation lemon flavoring, which it purported to be.

Misbranding was alleged in that the statement "Imitation Lemon Flavoring" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article.

On March 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28543. Adulteration and misbranding of imitation lemon flavor. U. S. v. 140 Bottles of Flavoring Extract. Default decree of condemnation and destruction. (F. & D. No. 41281. Sample No. 50592–C.)

This product contained a glycol or a glycol ether, or both, poisons, and was short in volume.

On December 30, 1937, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 140 bottles of imitation lemon flavor at Jonesville, La., alleging that the article had been shipped in interstate commerce on or about May 25 and December 11, 1937, from Natchez, Miss., by the Interstate Coffee Co., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Tasty Brand * * * Interstate Coffee Co. * * * Natchez, Miss."

It was alleged to be adulterated in that a product containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for imitation lemon flavoring extract, which the article purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

Misbranding was alleged in that the statements borne on the labels, "Flavoring Extract Imitation Lemon" and "Contents 4 Fluid Ozs.," were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons, and which was short in volume; in that it was offered for sale under the distinctive name of another article; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On January 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28544. Adulteration and misbranding of imitation flavors. U. S. v. 2 Bottles of Imitation Butter Flavor, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41315, 41433. Sample Nos. 46668–C, 54377–C to 54382, incl.)

These products contained from 72 to 87 percent of carbitol, a commercial solvent composed of a glycol or a glycol ether, or both, poisons.

On January 4, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two bottles of imitation butter flavors at Pittsburgh, Pa. On January 17, 1938, a libel was filed against six bottles of imitation fruit flavors at Atlanta, Ga. The libels

alleged that the articles had been shipped in interstate commerce on various dates between September 20 and October 29, 1937, from New York, N. Y., by George Lueders & Co., and charged adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part, "George Lueders & Co."

They were alleged to be adulterated in that products containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for fruit flavors and butter flavor, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the statements borne on the labels, "Concentrated Essence of Banana [or "Grape," "Strawberry," "Raspberry," "Cherry," or "Pineapple"] Imitation," and "Butter Flavor Imitation," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that the articles were offered for sale under the distinctive names of other articles, food flavors.

On February 3 and 14, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28545. Adulteration and misbranding of imitation butter flavor. U. S. v. 1 Gallon Bottle of Imitation Butter Flavor, et al. Default decree of condemnation and destruction. (F. & D. No. 41073. Sample No. 48461–C.)

This product contained about 80 percent of diethylene glycol, a poison.

On December 13, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1½ gallons of imitation butter flavor at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about October 30, 1937, from Baltimore, Md., by C. M. Pitt & Sons Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Imitation Butter Flavor No. 7 * * * C. M. Pitt & Sons Co. * * * Baltimore, Md."

It was alleged to be adulterated in that a product containing diethylene glycol, a poison, had been substituted in whole or in part for imitation butter flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, diethylene glycol, which might have rendered it injurious to health.

Misbranding was alleged in that the statement "Imitation Butter Flavor" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing diethylene glycol, a poison.

On February 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28546. Adulteration and misbranding of assorted flavors. U. S. v. 149 Bottles of Assorted Flavors. Default decree of condemnation and destruction. (F. & D. No. 41430. Sample No. 7863–D.)

These products contained an average of about 5 percent of carbitol, a commercial solvent composed of a glycol or a glycol ether, or both, poisons.

On January 14, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 149 bottles of assorted flavors at Passaic, N. J., alleging that the articles had been shipped in interstate commerce on or about August 6 and November 17, 1937, from New York, N. Y., by Viniculture & Ditte Riunite, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Harlem Flavoring Co. [or "Viniculture Co."] New York."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food flavors, which they purported to be.

Misbranding was alleged in that the designations of the various flavors, Arancio, or Latte di Vecchia, Holland Gin, Brandy, Caffe Sport, Rye, Strega, Verdolino, Mescolanza, Marsala, Scotch, Cognac, Cannella, Maraschino, Rum, Rosolio, Crema di cacao, Vermouth, Crema di menta, Benedettino, Mandarino, Anisette, Fragola, or Whiskey, and the statements "For Confectioners Use For Non Alcoholic Beverages [or "Non Alcoholic"]," were false and misleading and

tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that they were offered for sale under the distinctive names of another articles, food flavors.

On March 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28547. Adulteration and misbranding of imitation flavors and Glyco-Ester. U. S. v. 5 Gallons of Imitation Flavors and 1 Can of Glyco-Ester. Default decree of condemnation and destruction. (F. & D. Nos. 41047, 41048, 41379. Sample Nos. 65152–C, 65153–C, 71066–C.)

The Glyco-Ester consisted entirely of diethylene glycol, a poison; and the imitation flavors also contained a poison—a glycol or a glycol ether.

On December 9, 1937, and January 11, 1938, the United States attorneys for the Eastern and the Middle Districts of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 5 gallons of imitation flavors at Philadelphia, Pa., and one can of Glycol-Ester at York, Pa. The libels alleged that the articles had been shipped in interstate commerce on or about October 29, 1937, from New York, N. Y., by Ross & Rowe, Inc.; and charged adulteration and misbranding in violation of the Food and Drugs Act. They were labeled in part: "Ross & Rowe, Inc. Sole Distributors New York."

The imitation flavors were alleged to be adulterated in that products containing a glycol or a glycol ether, a poison, had been substituted in whole or in part for imitation raspberry and strawberry flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, which might have rendered them injurious to health. They were alleged to be misbranded in that the statements "Flavors Raspberry [or "Strawberry"] imitation," on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, a poison.

The Glyco-Ester was alleged to be adulterated in that a poisonous substance, a glycol, had been substituted wholly or in part for Glyco-Ester, a food solvent, which it purported to be. It was alleged to be misbranded in that the statement "Glyco-Ester" on the label was false and misleading and tended to deceive and mislead the purchaser when applied to a poison unfit for use as a food solvent; and in that it was offered for sale under the distinctive name of another article, Glyco-Ester, a food-flavor solvent.

On January 21 and February 7, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28548. Adulteration and misbranding of beverage flavors. U. S. v. 55 Dozen and 66 Dozen Bottles of Assorted Flavors. Default decrees of condemnation and destruction. (F. & D. Nos. 41264, 41265. Sample Nos. 38468–C, 38470–C.)

The Anisone and maraschino types of these products contained carbitol, a solvent composed of a glycol or a glycol ether, or both, which are poisons.

On December 27, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 121 dozen bottles of assorted flavors at Newark, N. J., alleging that the articles had been shipped in interstate commerce on or about July 20, October 21, and November 21, 1937, from Brooklyn, N. Y., by Atlas Extracts Corporation, and charging adulteration and misbranding of certain varieties in violation of the Food and Drugs Act. The products charged to be adulterated and misbranded were labeled in part, respectively: "White Arrow Brand Anisone Flavor Atlas Extracts Corp., Brooklyn, N. Y."; and "L'Italiana Brand Maraschino Flavor Sole Distributors Jacob Kurtz & Son Co. Newark, N. J."

Adulteration was alleged in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for beverage flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the statements on the labels, "Anisone Flavor * * * For Non-Alcoholic Beverages For Confectioners Use" and "Maraschino Flavor," were false and misleading and tended to deceive and

mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that they were offered for sale under the distinctive names of other articles, beverage flavors.

On February 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28549. Adulteration and misbranding of assorted flavors. U. S. v. 45 Cases, 5 Dozen Bottles, and 40 Cases of Assorted Flavors. Default decrees of condemnation and destruction. (F. & D. Nos. 41355, 41449 to 41454, incl., 41461. Sample Nos. 65173–C, 65174–C, 65175–C, 65182–C, 65183–C, 65184–C, 65186–C, 65187–C, 65188–C, 75751–C, 75752–C, 75753–C.)

The grape, cherry, and raspberry varieties of these products were artificially flavored and colored acid solutions containing little or no fruit juices; and the other varieties contained from 6 to 10 percent of carbitol, composed of a glycol or a glycol ether, or both, poisons.

On January 6 and 17, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 85 cases and 5 dozen bottles of assorted flavors at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce on or about May 10, July 27, and August 10 and 23, 1937, from Camden, N. J., by John Lecroy & Son, Camden, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Joy Drink * * * John Lecroy & Son, Camden, N. J."

The lemon, lemon-lime, and orange varieties were alleged to be adulterated in that products containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for fruit flavors, which they purported to be. The grape, cherry, and raspberry varieties were alleged to be adulterated in that artificially flavored and colored acid solutions, containing little or no fruit juice, had been substituted in whole or in part for the articles. Portions of the said grape, cherry, and raspberry varieties were alleged to be adulterated further in that they had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements, "Lemon Flavor," "Lemon-Lime Flavor," "Orange Flavor," "Grape Flavor," "Cherry Flavor," and "Raspberry Flavor" and the designs of raspberries, oranges, lemons, cherries, and grapes on a display carton enclosed in each case, were false and misleading and tended to deceive and mislead the purchaser when applied to lemon, lemon-lime, and orange flavors containing a glycol or a glycol ether, or both, poisons, and when applied to grape, cherry, and raspberry flavors, which were artificially flavored and colored acid solutions containing little or no fruit juices. The articles were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles.

On February 2 and 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28550. Adulteration and misbranding of vanilla and imitation vanilla. U. S. v. 1 Keg of Vanilla and 1 Half-Barrel of Vanilla Imitation. Decrees of condemnation and destruction. (F. & D. Nos. 41546, 41571. Sample Nos. 808–D, 2456–D.)

These products contained poisons—about 25 percent of a mixture of diethylene glycol and ethers of diethylene glycol in the case of the vanilla, and about 23 percent of diethylene glycol in the case of the imitation vanilla.

On January 28, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one keg of vanilla at Atlanta, Ga. On February 1, 1938, a libel was filed against 1 half-barrel of imitation vanilla at Nebraska City, Nebr. The libels alleged that the articles had been shipped in interstate commerce on or about September 30, 1937, from Cleveland, Ohio, by the Zipp Manufacturing Co., and charged adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Zipp's Pure Vanilla [or "Vanilla Imitation"]."

The articles were alleged to be adulterated in that substances containing a glycol and both a glycol and glycol ethers, poisons, had been substituted in whole or in part for imitation vanilla and pure vanilla, respectively, which

they purported to be; and in that they contained added poisonous ingredients, a glycol and both a glycol and glycol ethers, respectively, which might have rendered them injurious to health.

Misbranding was alleged in that the statements, "Pure Vanilla" and "Vanilla Imitation," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that contained poisons; and in that they were offered for sale under the distinctive names of other articles, Pure Vanilla and Vanilla Imitation.

On February 12 and 19, 1938, the claimant for the lot seized at Nebraska City, Nebr., having consented to the entry of a decree, and no claimant having appeared for the lot seized at Atlanta, Ga., judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28551. Adulteration and misbranding of lemon flavor and banana flavor. U. S. v. 37 Bottles of Lemon Flavor and 35 Bottles of Banana Flavor. Default decree of condemnation and destruction. (F. & D. Nos. 41380, 41381. Sample Nos. 31572–C, 31573–C.)

These products contained carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons. Moreover, the quantity of contents statement was inconspicuous.

On January 13, 1938, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 bottles of lemon and banana flavors at Tell City, Ind.; alleging that the articles had been shipped in interstate commerce on or about November 3, 1937, by the Huddy Product Co. from St. Louis, Mo., to Hardinsburg, Ky., and that they had been transported thence to Tell City, Ind.; and charging that they were adulterated and misbranded in violation of the Food and Drugs Act. The articles were labeled in part: "Huddy Product Co. St. Louis."

They were alleged to be adulterated in that products containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for "Food Flavoring Lemon" and "Food Flavoring Banana," which they purported to be.

Misbranding was alleged in that the statements, "Food Flavoring Lemon [or "Banana"] For Pies Cakes Etc.," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to products containing a glycol or a glycol ether, or both, poisons; in that they were offered for sale under the distinctive names of other products; and in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 22, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28552. Adulteration and misbranding of assorted imitation flavors. U. S. v. 32 5/12 Dozen Bottles of Flavors, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41472, 41541. Sample Nos. 7866–D, 7877–D, 7878–D.)

Samples taken from each of the three lots of these products contained 20, 20, and 25 percent, respectively, of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 19 and 26, 1938, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 48 dozen bottles of imitation flavors at Jersey City, N. J., and 36⅛ dozen bottles of imitation flavors at Newark, N. J., alleging that the articles had been shipped in interstate commerce on various dates between March 8 and December 27, 1937, from New York, N. Y., by L'Italiana, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Confectionery and Bakery Specialties * * * L'Italiana Extracts—New York [or "L'Italiana, Inc. New York"]."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the statement "Imitation Flavor" and the designation of the various flavors, borne on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons: (Flavors) Anisette, Whiskey, Rye, Rum, Crema di mandarino, Marsala, Rosolio, Tutti Fruitti, Verdolino, Crema di Cacao, Crema di Limone, Mistra, Flore Aleino, Anesone, Curacao, Benedettino, Crema di Arancio, Cannella, Crema di Banana, Torrone, Brandy, Cognac, Strega, Crema di Menta, Persico, Crema Mocha, Apricot, Stomatico, Liquore Elena, Gin, Fernet, Vermouth, Cherry, Latte di Vecchia, Caffe Sport, Nocillo, Maraschino, Mandorla Amara, Chartreuse, Gelsomino, Quattro Compari, and Vainiglia. Misbranding was alleged further in that the articles were offered for sale under the distinctive names of other articles, food flavors.

On March 23, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28553. Adulteration and misbranding of fruit flavors. U. S. v. 7 Gallons of Imitation Wild Cherry Essence and 1 Gallon of Grape Aroma. Default decree of condemnation and destruction. (F. & D. Nos. 40898, 40899. Sample Nos. 58232-C, 58233-C.)

These products contained approximately 50 percent of diethylene glycol monoethyl ether, a poison.

On or about November 23, 1937, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 8 gallon bottles of the above-named products at St. Joseph, Mo., alleging that the articles had been shipped in interstate commerce on or about October 27, 1937, by J. N. Hickok & Son from Jersey City, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "J. N. Hickok & Son * * * J. N. H. Brand * * * Brooklyn, N, Y."

The articles were alleged to be adulterated in that products containing diethylene glycol monoethyl ether, a poison, had been substituted in whole or in part for the said articles and in that they contained an added poisonous or deleterious ingredient, diethylene glycol monoethyl ether, which might have rendered them injurious to health.

They were alleged to be misbranded in that the statements on the labels, "Imitation Wild Cherry Essence Contains Esters, Volatile Oils, Vegetable Tincture and Cologne Spirits" and "Grape Aroma Contains Pure Fruit Extractions, Esters, Essential Oils and Alcohol," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing diethylene glycol monoethyl ether.

On January 3, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28554. Adulteration and misbranding of imitation vanilla. U. S. v. 1 Bottle and 1 Bottle of Imitation Vanilla. Default decrees of condemnation and destruction. (F. & D. Nos. 41382, 41383. Sample Nos. 71260-C, 71261-C.)

These two lots of imitation vanilla flavor contained 20 and 25 percent, respectively, of diethylene glycol, a poison.

On January 12, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of one bottle of imitation vanilla at Oaklyn, N. J., and one bottle of imitation vanilla at Camden, N. J., alleging that the article had been shipped in interstate commerce on or about October 22 and November 27, 1937, from Philadelphia, Pa., by Baker's Merchandise Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Concentrated Imitation Vanilla Pennsylvania Extract Co. Inc. * * * Philadelphia, Pa."

It was alleged to be adulterated in that a product containing a poisonous substance, a glycol, had been substituted in whole or in part for concentrated imitation vanilla, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health.

Misbranding was alleged in that the statement "Concentrated Imitation Vanilla" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison; and in that it was offered for sale under the distinctive name of another article, a food flavor.

On March 10, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28555. Adulteration and misbranding of lemon extract. U. S. v. 5 Cartons of Lemon Extract. Default decrees of condemnation and destruction. (F. & D. No. 41201. Sample No. 64008–C.)

This product was artificially colored and contained no lemon oil. It contained about 3.6 percent of commercial carbitol, composed of a glycol or a glycol ether, or both, poisons.

On December 21, 1937, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five cartons of lemon extract at Fort George Wright, Wash., alleging that the article had been shipped in interstate commerce on or about November 24, 1937, from San Francisco, Calif., by West American Sales Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pure Lemon Extract * * * Packed for F and H Sales Company Distributors San Francisco, California."

It was alleged to be adulterated in that an artificially colored product containing no lemon oil, but which contained a glycol or glycol ether, or both, poisons, had been substituted in whole or in part for pure lemon extract, a food flavor, which it purported to be.

Misbranding was alleged in that the statement "Pure Lemon Extract" was false and misleading and tended to deceive and mislead the purchaser when applied to the article; and in that it was an imitation of and was offered for sale under the distinctive name of another article, pure lemon extract, a food flavor.

On February 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28556. Adulteration and misbranding of imitation vanilla flavor. U. S. v. 1 Keg of Imitation Vanilla Flavor (and 2 other seizures of the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 40891, 40906, 40908. Sample Nos. 48086–C, 48432–C, 48434–C.)

One lot of this product contained about 10 percent of diethylene glycol, a poison; the other two lots contained 12 percent and 20 percent, respectively, of diethylene glycol monoethyl ether, a poison.

On November 22 and 23, 1937, the United States attorneys for the District of Columbia and the Northern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of one 5-gallon keg and one quart bottle of imitation vanilla flavor at Washington, D. C. and one gallon bottle of the product at Charles Town, W. Va. The libels alleged that the 5-gallon keg had been shipped by the H. L. Piel Co. from Baltimore, Md., into the District of Columbia on or about November 9, 1937; that the gallon bottle had been shipped by the H. L. Piel Co. from Baltimore, Md., into the State of West Virginia, on or about September 15, 1937, that the quart bottle was being offered for sale and sold in the District of Columbia in the possession of the Pennsylvania Avenue Cafe, Washington, D. C., and charged that the article was adulterated and misbranded in violation of the Food and Drugs Act. It was labeled in part: "Pielex * * * Imitation Vanilla Flavor * * * A Product of the H. L. Piel Co., Baltimore, Maryland."

One lot was alleged to be adulterated in that a poisonous substance, diethylene glycol, had been substituted in part for imitation vanilla flavor, an article sold for food use, which it purported to be; the other lots were alleged to be adulterated in that a product containing diethylene glycol monoethyl ether, a poison, had been substituted for imitation vanilla flavor, which the article purported to be. They were alleged to be adulterated further in that they contained an added poisonous or deleterious ingredient, which might have rendered them injurious to health.

All lots were alleged to be misbranded in that the statement borne on the label, "Imitation Vanilla Flavor," was false and misleading and tended to deceive and mislead the purchaser.

On January 5 and February 15, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28557. Adulteration and misbranding of imitation lemon flavor base. U. S. v. 11 One-gallon Bottles and 11 One-quart Bottles of Imitation Lemon Flavor Base. Default decree of condemnation. (F. & D. Nos. 41506, 41507. Sample Nos. 52338–C, 52339–C.)

The flavoring strength of this product was about one-tenth of that of a standard lemon extract.

On January 28, 1938, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 gallon and 11 quart bottles of imitation lemon flavor base at Tucson, Ariz., alleging that the article had been shipped in interstate commerce on or about December 16, 1937, from Los Angeles, Calif., by the General Paper Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Superfine Imitation Lemon Flavor Base * * * General Paper Co."

It was alleged to be adulterated in that a worthless substance had been substituted in whole or in part for imitation lemon flavor base, which it purported to be; and in that it had been mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Imitation Lemon Flavor Base" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was practically flavorless; and in that it was offered for sale under the distinctive name of another article, "Imitation Lemon Flavor Base."

On February 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28558. Misbranding of blended lemon juice and orangeade grenadine. U. S. v. 20 Bottles of Blended Lemon Juice, et al. Default decree of condemnation and destruction. (F. & D. No. 41629. Sample Nos. 7702–D, 7703–D.)

These products were labeled to indicate that they were lemon juice and orangeade grenadine, respectively; whereas the former contained from 25 to 35 percent of lemon juice with added citric acid and the latter contained little, if any, fruit juice. Both contained sodium benzoate in excess of the amount declared.

On February 4, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 bottles of the products, hereinafter described, at Weehawken, N. J., alleging that they had been shipped in interstate commerce on or about December 24, 1937, from New York, N. Y., by the Original Sunkist Orangeade Sales Co., and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Pure Blended Lemon Juice * * * [or "Sunkist Orangeade Grenadine"] * * * California Sunkist Products Co., New York, N. Y."

They were alleged to be misbranded in that they were imitations of and were offered for sale under the distinctive names of other articles; and in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to blended lemon juice and orangeade grenadine, respectively (the former consisted of an imitation lemon juice containing from 25 to 35 percent of lemon juice with added citric acid, and the latter of an imitation orangeade grenadine containing little, if any, fruit juice, both of which contained 0.043 percent of sodium benzoate): "100% Pure * * * Lemon Juice * * * Contains * * * Natural Citric Acid Made From Fresh Lemons * * * Lemonade and Lemon Pies * * * Use * * * for all Lemon Juice Purposes; for * * * Lemon Pies Lemonade, * * * California Blend is 100% Pure * * * Contains 1/10 of 1% Sodium Benzoate * * * 'Our Label Speaks the Truth'"; and "Orangeade Grenadine Made from Sunkist Orangeade With three other fruit juices," * * * Contains * * * 1/10 of 1% Sodium of Benzoate."

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28559. Adulteration and misbranding of fruit mixer. U. S. v. 59 Jugs and 47 Jugs of Fruit Mixer Lemon. Default decrees of condemnation and destruction. (F. & D. Nos. 40652, 40653. Sample Nos. 33797–C, 33798–C.)

This product was labeled to convey the impression that it was lemon juice; whereas it consisted of a mixture of acid, water, citrus oil, artificial color, and about 7 percent of lemon juice. A portion also contained undeclared benzoate of soda and artificial color.

On November 3, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 106 jugs of fruit mixer at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about October 1 and 8, 1937, from Irvington, N. J., by Castle Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tomahawk Brand Cocktail Fruit Mixer Lemon * * * Castle Products, Inc., Newark, N. J."; or "Famous Brand Fruit Mixer Lemon * * * Famous Foods, Inc., Detroit, Mich."

It was alleged to be adulterated in that it was mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements on the labels, (Tomahawk brand) "Lemon Use As Juice of Fresh Fruit," "Use whenever lemon juice is desired. Two tablespoons are equal to the juice of one lemon. Contains the juice of tree-ripened, California-squeezed lemons," and (Famous brand) "Lemon Use As Juice of Fresh Fruit * * * Fruit Juice," were false and misleading and tended to deceive and mislead the purchaser, since they implied that the article was pure lemon juice; and in that the article was an imitation of and was offered for sale under the distinctive name of another article, lemon juice. The Tomahawk brand was alleged to be misbranded further in that the statement of composition on the label, "Contains the juice of tree-ripened, California-squeezed lemons. Flavor, fruit acid, cert. color and 1/10 of 1% sodium benzoate added," was misleading since the article contained approximately 93 percent of water, which was not declared. The Famous brand was alleged to be misbranded further in that it was labeled so as to deceive the purchaser, since it contained added benzoate of soda and artificial color, the presence of which was not declared on the label.

On February 5, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28560. Misbranding of Lemon Flavored Squeeze and Orange Flavored Squeeze. U. S. v. 93 Cases of Lemon-Flavored Squeeze and 83 Cases of Orange Flavored Squeeze. Default decree of condemnation and destruction. (F. & D. No. 40417. Sample Nos. 58914–C, 58915–C.)

These products were labeled to indicate that they were fruitade bases; whereas they consisted essentially of sugar, citric acid, artificial color, and citrus-oil flavor, containing little, if any, fruit.

On October 2, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 176 cases of the hereinafter-described products at Camden, N. J., alleging that they had been shipped in interstate commerce on or about July 21 and August 10, 1937, from New York, N. Y., by General Desserts Corporation, and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Distributed by Loyd's of America, Camden, N. J."

They were alleged to be misbranded in that they were imitations of and were offered for sale under the distinctive names of other articles, lemon juice and orange juice; and in that the following statements and designs on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to articles that consisted essentially of sugar, citric acid, artificial color, and citrus-oil flavor with little, if any, fruit: "Lemon [or "Orange"] Flavored Squeeze * * * Made with pure dehydrated lemon [or "orange"] juice. Costs less than fresh fruit"; and the design of a lemon or orange dripping juice into a glass.

On April 26, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28561. Adulteration of vanilla flavor. U. S. v. 23⅝ Dozen Bottles of Vanilla Flavor, et al. Default decree of condemnation and destruction. (F. & D. No. 41662. Sample 1036–D.)

This product was artificially flavored and colored and was so weak that it was practically worthless as a flavoring agent.

On February 11, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37⅔ dozen bottles of vanilla flavor at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about December 29, 1937, and January 13, 1938, from Boston, Mass., by the Outlet Merchandise Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Lane Vanilla Flavor Distributed by Lane Products Boston, Mass."

The article was alleged to be adulterated in that a worthless substance having no flavoring value had been substituted in whole or in part for vanilla flavor, which it purported to be; and in that it had been mixed and colored in a manner whereby inferiority was concealed.

On March 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28562. Adulteration of shelled peanuts. U. S. v. 15 Bags and 7 Bags of Shelled Peanuts. Default decrees of condemnation and destruction. (F. & D. Nos. 41029, 41031. Sample Nos. 43446–C, 43448–C.)

This product was found to be dirty.

On December 7, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 22 bags of shelled peanuts at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about October 28, 1937, by the Donaldsonville Grain & Elevator Co. from Donaldsonville, Ga., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 28, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28563. Adulteration of shelled peanuts. U. S. v. 13 Bags and 12 Bags of Shelled Peanuts. Default decrees of condemnation and destruction. (F. & D. Nos. 40904, 41029. Sample Nos. 43447–C, 61236–C.)

This product was found to be dirty.

On November 23 and December 7, 1937, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 25 bags of shelled peanuts at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 3, 1937, by Barnhart & Pence from Valdosta, Ga., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 28, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28564. Adulteration of Brazil nuts. U. S. v. 29 Bags of Brazil Nuts. Consent decree of condemnation. Product released under bond for separation and destruction of unfit portion. (F. & D. No. 41133. Sample No. 60594–C.)

This product was in part moldy and rancid.

On December 15, 1937, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 29 bags of Brazil nuts at Salt

Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about September 16, 1937, by American Commerce Co. from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On January 21, 1938, Symns Utah Grocer Co., Salt Lake City, Utah, having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the nuts be cracked and shelled and the unfit portion destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28565. Adulteration of pecan meats. U. S. v. 7 Cases of Pecan Meats. Default decree of condemnation and destruction. (F. & D. No. 40967. Sample No. 54942–C.)

Samples of this product were found to be rancid, decomposed, and shriveled.

On November 30, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of pecan meats at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about March 20, 1937, by the Associated Pecan Co. from Valdosta, Ga., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "From Associated Pecan Co. Valdosta, Ga."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28566. Adulteration of apples. U. S. v. 74 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41239. Sample No. 46115–C.)

This product was contaminated with arsenic and lead.

On December 3, 1937, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 74 bushels of apples at Wausau, Wis., alleging that the article had been shipped in interstate commerce on or about October 17, 1937, by Cohodas Bros. from Frankfort, Mich., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Packed by George E. Iverson, Arcadia, Mich.—Arlie L. Hopkins, Bear Lake, Mich."

It was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient, lead and arsenic, which might have rendered it injurious to health.

On January 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28567. Misbranding of canned peas. U. S. v. 382 Cases of Canned Peas. Product ordered released under bond to be relabeled. (F. & D. No. 40903. Sample No. 61868–C.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On November 23, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 382 cases of canned peas at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about October 2, 1937, by Phillips Sales Co., Inc., from Cambridge, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Phillips Delicious Early June Peas * * * Packed by Phillips Packing Co., Inc., Cambridge, Md."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On January 6, 1938, Phillips Sales Co., Inc., claimant, having admitted the allegations of the libel, judgment was entered ordering release of the product under bond to be relabeled under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28568. Misbranding of canned peas. U. S. v. 98 Cases of Canned Peas. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 41272. Sample No. 37764–C.)

This product was substandard because the peas were not immature and it contained excess foreign material, and it was not labeled to indicate that it was substandard.

On December 29, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of canned peas at Mount Vernon, N. Y., alleging that the article had been shipped in interstate commerce on or about July 16, 1937, by the Phillips Commission Co. per Nuttle Canning Co., from Denton, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Nuttle Brand Early June Peas, Packed by Nuttle Canning Company, Denton, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, it contained excess foreign material, and its package or label did not bear a plain or conspicuous statement prescribed by the regulations of this Department indicating that it fell felow such standard.

On January 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

W. R. Gregg, *Acting Secretary of Agriculture.*

28569. Misbranding of candy. U. S. v. 45 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 41087. Sample No. 61246–C.)

This product was artificially colored and flavored, and it contained sulphur dioxide. It also was short weight.

On December 22, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 boxes of candy at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 6, 1937, by the Puritan Chocolate Co. from Cincinnati, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Box) "Chocolate Cherry Cobbler The Puritan Chocolate Co., Cincinnati, Ohio."

It was alleged to be misbranded in that the labeling was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing artificial coloring, artificial flavor, and sulphur dioxide, which was not declared. It was alleged to be misbranded further in that the statement "Net Weight 2 Oz. or Over," borne on the wrapper, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the wrapper, since the statement of contents was not correct and the wrapper was folded in such manner that the statement was covered.

On January 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28570. Misbranding of candy. U. S. v. 8 Cases of Candy. Default decree of condemnation and destruction. (F. & D. No. 41194. Sample No. 50583–C.)

The net weight of this product was less than that claimed in the contents statement that was inconspicuously placed on the bottom of the box.

On December 22, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cases of candy at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about November 22 and December 3, 1937, by Head Candies, Inc., from Atlanta, Ga., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Wrapper) "Head Candies, Inc. Atlanta Peanut Brittle 10 Ounces Net Weight."

It was alleged to be misbranded in that the statement "10 Ounces Net weight" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct and the statement of net weight was inconspicuous.

On January 19, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28571. Adulteration of candy. U. S. v. 7 Cases of Candy. Default decree of condemnation and destruction. (F. & D. No. 41099. Sample No. 60563–C.)

This product contained excessive lead.

On December 14, 1937, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of candy, labeled "Piloncillo," at Santa Fe, N. Mex., alleging that the article had been shipped in interstate commerce on or about August 30, 1937, by Pickens-Bunting Co. from El Paso, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On January 19, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28572. Adulteration of apple butter. U. S. v. 24 Cartons of Apple Butter. Default decree of condemnation and destruction. (F. & D. No. 41402. Sample No. 45035–C.)

This product was infested with insects and mites.

On January 12, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cartons of apple butter at Oakland, Calif., alleging that the article had been shipped in interstate commerce on or about May 7, 1937, by Preserves & Honey, Inc., from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Jar) "Acme Brand Pure Apple Butter * * * Preserves & Honey, Inc., New York, N. Y."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28573. Adulteration of butter. U. S. v. 157 Cubes of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 41366. Sample Nos. 62015–C, 62137–C.)

This product contained less than 80 percent of milk fat.

On December 20, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 157 cubes of butter at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about November 23, 1937, by the Fairmont Creamery Co., from Devils Lake, N. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On January 24, 1938, the Fairmont Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked under the supervision of this Department so as to comply with the law.

W. R. Gregg, *Acting Secretary of Agriculture.*

28574. Adulteration and misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41466. Sample No. 887-D.)

This product was below the grade declared on the label because of excessive grade defects consisting mostly of net necrosis.

On January 18, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce by Paul Jackins from Houlton, Maine, on or about January 8, 1938, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maine U. S. No. 1 Spudo Brand Potatoes Paul Jackins Houlton, Me."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

It was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On January 26, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution in order that the portion which was not decomposed might be used by such institution.

W. R. Gregg, *Acting Secretary of Agriculture.*

28575. Adulteration and misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41434. Sample No. 883-D.)

This product was below the grade declared on the label because of serious damage by net necrosis.

On January 14, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about January 7, 1938, by W. C. Hand from Oakfield, Maine, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "U. S. Grade No. 1 * * * Packed by W. C. Hand, New Limerick, Maine."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

It was alleged to be misbranded in that the statement "U. S. Grade No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On January 31, 1938, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be delivered to a charitable institution in order that the potatoes which were not decomposed might be made use of by such institution.

W. R. Gregg, *Acting Secretary of Agriculture.*

28576. Adulteration and misbranding of Solvohol. U. S. v. 30 Gallons of Solvohol G. F. (and 12 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 41013, 41043, 41045, 41077, 41101, 41102, 41113, 41136, 41154, 41156, 41157, 41169, 41181. Sample Nos. 13973-C, 36778-C, 36779-C, 43449-C, 47591-C, 47701-C, 54359-C, 56722-C, 65076-C, 71196-C, 71226-C, 71231-C, 71301-C.)

These products were sold as food solvents. Analyses showed that they consisted in whole or in large part of a glycol or a glycol ether, or both, poisons.

On December 10, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 gallons of Solvohol G. F. at New Orleans, La. On various dates between December 9 and December 22, 1937, libels were filed against 153 gallons of Solvohol G. F., 18 gallons of Solvohol G, and 10 gallons of Solvohol A. 1., in various lots at Davenport, Iowa; New Orleans, La.; Atlantic City, N. J.; Cincinnati and Cleveland, Ohio; Louisville, Ky.; Birmingham, Ala.; Greenfield, Ind.; Atlanta, Ga.; Philadelphia, Pa.; and Jersey City, N. J. The libels alleged that the articles had been shipped in interstate commerce on various dates between May 12, 1936, and December 3, 1937, from Brooklyn, N. Y., by Felton Chemical Co., Inc., and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Solvohol G. F. [or "G" or "A. 1"] From Felton Chemical Co. * * * Brooklyn, New York."

The articles were alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food-flavor solvents, which they purported to be.

All the articles except one unlabeled lot of Solvohol G. were alleged to be misbranded in that the statements, "Solvohol G. F.," "Solvohol A. 1.," and Solvohol G.," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser. All lots were alleged to be misbranded in that they were sold under the distinctive names of other articles, Solvohol G. F., Solvohol A. 1., and Solvohol G, food-flavor solvents.

On various dates between January 10 and April 20, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28577. Adulteration and misbranding of imitation vanilla flavor. U. S. v. 2 Jugs and 10 Cans of Vanilla Flavor Imitation. Default decrees of condemnation and destruction. (F. & D. Nos. 41051, 41127. Sample Nos. 57157–C, 65155–C.)

This product contained diethylene glycol, a poison.

On December 9 and 15, 1937, the United States attorneys for the Eastern District of Pennsylvania and the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 2 gallon jugs of imitation vanilla flavor at Philadelphia, Pa., and 10 pound cans of the product at Hoboken, N. J. The libels alleged that the article had been shipped in interstate commerce on or about August 16 and September 18, 1937, from Brooklyn, N. Y., by the Standard Specialty Sales Co., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Vanoyl Concentrated Vanilla Flavor Imitation."

It was alleged to be adulterated in that a product containing a glycol, a poison, had been substituted in whole or in part for a food flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health.

It was alleged to be misbranded in that the statement, "Vanoyl Imitation Concentrated Vanilla Flavor," was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison. The libel filed in the District of New Jersey alleged that the article was misbranded further in that it was sold under the distinctive name of another article, a food flavor.

On January 21 and April 4, 1938, no claimant having appeared, judgments of condemnation were entered and the article was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28578. Adulteration and misbranding of food-flavor solvents. U. S. v. 1 Glass Jug and 1 Can of Sungam. Default decree of condemnation and destruction. (F. & D. No. 41438. Sample Nos. 721–D, 722–D.)

These products were sold as food solvents. One lot consisted of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons; and the other consisted of diethylene glycol, a poison.

On or about January 22, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one glass jug and one can of food solvents at Jacksonville, Fla., alleging that the articles had been shipped in interstate commerce on or about September 11, 1937, from New York, N. Y., by Mangus, Mabee & Reynard, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. One lot was labeled in part: "Magnus, Mabee & Reynard * * * Sungam M. M. & R. V. V."

The articles were alleged to be adulterated in that a poisonous substance, a glycol, or a glycol ether, or both, had been substituted in whole or in part for food-flavor solvents, which they purported to be.

Misbranding was alleged with respect to one lot in that the statement "Sungam M. M. & R. V. V." was false and misleading and tended to deceive and mislead the purchaser when applied to a poison unfit for use as a food-flavor solvent. Both lots were alleged to be misbranded in that they were offered for sale under the distinctive names of other articles, "Sungam M. M. & R." and "Sungam M. M. & R. V. V.," food-flavor solvents.

On March 10, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28579. Adulteration and misbranding of imitation lemon and vanilla flavors. U. S. v. 18 Cases of Imitation Lemon Flavor (and four other seizures of imitation flavors). Default decrees of condemnation and destruction. (F. & D. Nos. 41297, 41330, 41386, 41432. Sample Nos. 44394–C, 54004–C to 54007–C, incl., 61501–C, 61502–C.)

These products contained a glycol or a glycol ether, or both, poisons.

On January 14 and 15, 1938, the United States attorneys for the Eastern and Middle Districts of North Carolina, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 154 dozen bottles of imitation vanilla flavor and 54¼ dozen bottles of imitation lemon flavor in various lots at Littleton, Rocky Mount, and Rockingham, N. C., alleging that the articles had been shipped in interstate commerce on various dates between May 18 and December 8, 1937, from Norfolk, Va., by Twin City Manufacturing Co., of Norfolk, Va., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Jack Horner Brand Lemon [or "Vanilla"] Imitation * * * Packed by Twin City Mfg. Co., Inc., Norfolk, Va."

They were alleged to be adulterated in that products containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food flavors, which they purported to be. Certain lots were alleged to be adulterated further in that they contained an added poisonous or deleterious ingredient which might have rendered them injurious to health.

Misbranding was alleged in that the statements, "Lemon [or Vanilla] Imitation * * * for Flavoring Sauces, Puddings and etc.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that the articles were offered for sale under the distinctive names of other articles, food flavors.

On February 17 and March 17, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28580. Adulteration and misbranding of vanilla extract. U. S. v. 13 Bottles of Flavoring Extract of Vanilla (and one other seizure of the same product). Consent decree of condemnation and destruction. (F. & D. Nos. 41578, 41579. Sample Nos. 161–D, 162–D.)

This product contained diethylene glycol, a poison.

On February 2, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 23 bottles of vanilla extract at Denver, Colo., consigned by Geo. W. Caswell Co., alleging that the article had been shipped in interstate commerce on or about September 4 and November 12, 1937, from San Francisco, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "Caswell Flavoring Extract of Vanilla Geo. W. Caswell Co. San Francisco, Cal."

It was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health; and in that a poisonous substance, a glycol, had been substituted in whole or in part for flavoring extract of vanilla, which it purported to be.

Misbranding was alleged in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison: (Bottles) "Flavoring Extract of Vanilla * * * Purity Guaranteed"; (cartons) "Vanilla A Pure Extract" or "Vanilla Extract." Misbranding was alleged further in that the article was offered for sale under the distinctive name of another article, flavoring extract of vanilla.

On February 14, 1938, Geo. W. Caswell Co., having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28581. Adulteration and misbranding of assorted flavors. U. S. v. 56 Dozen Bottles of Assorted Flavors, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41388, 41389, 41429. Sample Nos. 71762–C, 71764–C, 71765–C, 7861–D, 7862–D, 7864–D.)

These products contained a glycol or a glycol ether, or both, poisons.

On January 12 and 14, 1938, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the

district court libels praying seizure and condemnation of 241 dozen bottles of assorted flavors at Passaic, N. J., and 175 dozen bottles of similar products at Newark, N. J., alleging that the articles had been shipped in interstate commerce on various dates between June 3, 1936, and December 6, 1937, from New York, N. Y., by the Sanitogeno Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Unici Distributori The Sanitogeno Co."; or "La Luna Extracts Co."

The articles were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

The articles were alleged to be misbranded in that the following statements on the labels and the designations of the various flavors, also borne on the labels, were false and misleading, and tended to deceive and mislead the purchaser when applied to articles containing a glycol, or a glycol ether, or both, poisons: "For Baking and Confectionery Use Only," "This Flavor is Used For Baking and Confectionery Only," "For Non-Alcoholic Beverages," "Estratti"; (various flavors) Rum, Anisette, Whiskey, Brandy, Cr. di Caffe, Cr. di Menta, Cognac, Rye, Crema di Cacao, Marsala, Gin, Anice, Menta, Gelsomino, Rosolio, Centerba, Strega, Vainiglia, Peach, Verdolino, Cannella, Kummel, Mandarino, Apricot, Benedettino, Vermouth, Anesone, Moschettieri, 4 Compari, Tutti Frutti, Latte di Vecchia, Rosa, Scotch, Arancio, Pineapple, Torrone, Caffe Sport, Banana, Liquore Klena, Mondorla, Mescolonza, Alkermes, Crema di Cioccolatta, Goccia d'Oro, Liquore dei Monaci, Sombrica, Ferrochina, Maraschino, Ertosa Gialla, Lemmec, Millefiori, Fragola, Ananas, Grappa, Certosa, Verde, Cherry, Liquore delle Alpi, Curacao, Papa Sista, Nocillo, Latte di Giovana, Menta Glaciale, Amaro Felsino, Scacciadiavoli, Limone, Certosa Gialla, Sambuca.

The articles were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, food flavors.

On March 10, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28582. Adulteration and misbranding of imitation wild cherry essence. U. S. v. 1 Bottle of Imitation Wild Cherry Essence. Default decree of condemnation and destruction. (F. & D. No. 41206. Sample No. 71238–C.)

This product contained carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On December 22, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one bottle of imitation wild cherry essence at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about November 5, 1937, from Brooklyn, N. Y., by John N. Hickok & Son, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "J. N. Hickok & Son JNH Brand Imitation Super Wild Cherry Essence."

It was alleged to be adulterated in that a product containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for a food flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

Misbranding was alleged in that the statement "Imitation Super Wild Cherry Essence" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article.

On January 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28583. Adulteration and misbranding of concentrated imitation vanilla. U. S. v. 1 Gallon Jug of Concentrated Vanilla Imitation, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41390, 41502, 41523. Sample Nos. 1361–D, 1362–D, 1532–D, 1533–D.)

This product contained carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 12 and 21, 1938, the United States attorneys for the District of Maryland and the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 3½ gallons of concentrated imitation vanilla at Baltimore, Md., and 1½ gallons of the same product at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on various dates between November 6 and December 24, 1937, from Long Island City, N. Y., by the Willmark Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Willmark Corp. * * * Long Island City, N. Y."

The article was alleged to be adulterated in that a product containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for concentrated vanilla imitation, which the article purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

It was alleged to be misbranded in that the statement on the label, "Concentrated Vanilla Imitation," was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article.

On February 11 and 18, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28584. Adulteration and misbranding of imitation flavors. U. S. v. 4 Bottles of Soda Water Flavor Cherry (and 3 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41180, 41199, 41204, 41525. Sample Nos. 71193–C, 71197–C, 71199–C, 1488–D, 1489–D.)

A portion of these products contained carbitol, a solvent composed of a glycol or a glycol ether or both, poisons; the remainder contained diethylene glycol, a poison.

On December 20 and 22, 1937, and January 24, 1938, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 11 gallons of various flavors at Trenton, Atlantic City, and Absecon, N. J., alleging that the articles had been shipped in interstate commerce on various dates between August 5 and November 6, 1937, from Philadelphia, Pa., by William Lawton Roorbach, and charging adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Wm. Lawton Roorbach * * * Philadelphia, Pa."

They were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food and beverage flavors, which they purported to be. The cream soda flavor and a portion of the imitation cherry flavors were alleged to be adulterated further in that they contained an added poisonous or deleterious ingredient, a glycol, which might have rendered them injurious to health.

The articles were alleged to be misbranded in that the statements on the labels, "Soda Water Flavor Cherry," "Lemon Beverage Flavor," "Pale Dry Ginger Ale Flavor," "Cream Soda Flavor," and "Soda Water Flavor Cherry Imitation," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons. The articles were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, "Soda Water Flavor Cherry," "Lemon Beverage Flavor," "Pale Dry Ginger Ale Flavor," "Cream Soda Flavor," and "Soda Water Flavor Cherry Imitation."

On February 4 and March 23, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28585. Adulteration and misbranding of imitation raspberry, pineapple, and wild cherry essences. U. S. v. 11½ Gallons of Imitation Fruit Essences. Default decree of condemnation and destruction. (F. & D. Nos. 40892, 40893, 40894. Sample Nos. 62684–C, 62685–C, 62686–C.)

These products contained monoethyl ether of diethylene glycol, a poison.

On November 22, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11½ gallons of imitation fruit essences at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce on various dates between September 8 and October 22, 1937, from Brooklyn, N. Y., by J. N. Hickok & Son, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "J. N. Hickok & Son."

They were alleged to be adulterated in that products containing diethylene glycol monoethyl ether, a poison, had been substituted for "Imitation Raspberry [or "Pineapple" or "Wild Cherry"] Essence contains Esters, Volatile Oils, Vegetable Tincture and Cologne Spirits"; and in that they contained an added poisonous or deleterious ingredient, diethylene glycol monoethyl ether, which might have rendered them injurious to health.

Misbranding was alleged in that the statements, "Imitation Raspberry [or "Pineapple" or "Wild Cherry"] Essence contains Esters, Volatile Oils, Vegetable Tincture and Cologne Spirits," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing diethylene glycol monoethyl ether.

On January 22, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28586. Adulteration and misbranding of imitation rum flavor. U. S. v. 1 Gallon and 1 Gallon of "Conc. Rum Flavor Imit." Default decrees of condemnation and destruction. (F. & D. Nos. 41468, 41469. Sample Nos. 7981–D, 7982–D.)

Samples of this product contained 15 and 25 percent, respectively, of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 19, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 gallons of imitation rum flavor at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about December 4 and 17, 1937, from New York, N. Y., by Leonard J. Hymes, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Leonard J. Hymes * * * Conc. Rum Flavor Imit. * * * New York."

It was alleged to be adulterated in that a product containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted for "Conc. Rum Flavor Imit.," which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the statement "Conc. Rum Flavor Imit." was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article.

On March 16, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28587. Adulteration and misbranding of imitation flavors. U. S. v. 2 Bottles of Imitation Honey Flavor and 2 Bottles of Imitation Cherry with Pit Flavor. Default decrees of condemnation and destruction. (F. & D. Nos. 41299, 41300. Sample Nos. 28448–C, 28449–C.)

Samples of these products contained 55 and 60 percent, respectively, of carbitol, a solvent composed of a poison—a glycol or a glycol ether, or both.

On December 31, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four bottles of the above-described products at Pittsburgh, Pa., alleging that they had been shipped in interstate commerce on or about October 9, 1937, from New York, N. Y., by Schimmel & Co. Inc., and charging adulteration and misbranding in

violation of the Food and Drugs Act. The articles were labeled: "* * * Kallistarom * * *."

They were alleged to be adulterated in that a product containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food flavors, which they purported to be; and in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

The articles were alleged to be misbranded in that the statements, "Honey Imitation" and "Kallistarom Cherry with Pit Flavor Imitation," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that they were offered for sale under the distinctive names of other articles, food flavors.

On January 25, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28588. Adulteration and misbranding of imitation apple flavor. U. S. v. 1 Bottle of Imitation Apple Flavor. Default decree of condemnation and destruction. (F. & D. No. 41322. Sample No. 71072–C.)

This product contained about 75 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 3, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one bottle of imitation apple flavor at Reading, Pa., alleging that the article had been shipped in interstate commerce on or about October 14, 1937, from New York, N. Y., by Fries & Bro., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Fries & Bros. * * * New York * * * Imitation Truconomy Apple Flavor."

It was alleged to be adulterated in that a product containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for apple flavor, a food flavor, which it purported it to be; and in that it contained an added poisonous ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the name "Apple Flavor" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a poison; and in that it was offered for sale under the distinctive name of another article, apple flavor, a food flavor.

On February 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28589. Adulteration and misbranding of Gly-Ketol and Glyco-Ester. U. S. v. 50 Gallons of Gly-Ketol and 50 Pounds of Glyco-Ester. Default decrees of condemnation and destruction. (F. & D. Nos. 41111, 41112. Sample Nos. 47588–C, 47589–C.)

The Gly-Ketol consisted of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons; and the Glyco-Ester consisted of diethylene glycol, a poison.

On December 16, 1937, the United States attorny for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 50 gallons of Gly-Ketol and 50 pounds of Glyco-Ester at Cincinnati, Ohio, consigned about September 18 and November 5, 1937, alleging that the articles had been shipped in interstate commerce from New York, N. Y., by Fries Bros., and charging adulteration and misbranding in violation of the Food and Drugs Act. The Glyco-Ester was labeled in part: "Fries Bros. New York."

The articles were alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food-flavor solvents, which they purported to be.

Misbranding was alleged in that the names "Gly-Ketol" and "Glyco-Ester," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to poisons unfit for use as food-flavor solvents; and in that they were sold under the distinctive names of other articles, food-flavor solvents.

On March 16, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28590. Adulteration and misbranding of Gly-Ketol. U. S. v. 3 Cans of Gly-Ketol. Default decree of condemnation and destruction. (F. & D. No. 41277. Sample No. 51683–C.)

This product was carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On December 30, 1937, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cans of Gly-Ketol at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about December 7, 1937, from Seattle, Wash., by Bush Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "W. J. Bush & Co. Incorporated New York Gly-Ketol California Works: National City, Cal."

It was alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for a food-flavor solvent, which it purported to be.

It was alleged to be misbranded in that the statement "Gly-Ketol" was false and misleading and tended to deceive and mislead the purchaser when applied to a poison unfit for use as a food-flavor solvent; and in that it was sold under the distinctive name of another article, a food-flavor solvent.

On March 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28591. Adulteration and misbranding of Glycohol Special. U. S. v. 28 Gallons of Glycohol Special. Default decree of condemnation and destruction. (F. & D. No. 41129. Sample No. 13975–C.)

This product was carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On December 22, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 gallons of Glycohol Special at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from New York, N. Y., by the International Extract Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for Glycohol Special, a food-flavor solvent, which it purported to be.

Misbranding was alleged in that the article was offered for sale under the distinctive name of another article, Glycohol Special, a food-flavor solvent.

On January 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28592. Adulteration and misbranding of imitation flavors. U. S. v. 1 Bottle of Imitation Pineapple Flavor (and one other seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 41261, 41262, Sample Nos. 65564–C, 65565–C.)

These products contained from 60 to 80 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On December 27, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 bottles of imitation flavors at Pittsburgh, Pa., alleging that the articles had been shipped in interstate commerce on or about January 19 and September 15, 1937, from Cincinnati, Ohio, by Alex Fries Bro., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Fries Tru-Conomy Flavors * * * Pineapple 'F' [or "Peach"] Imitation Ross and Rowe, Inc., New York, Chicago."

The articles were alleged to be adulterated in that products containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for food flavors, which they purported to be; and in that they contained an added poisonous ingredient, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

They were alleged to be misbranded in that the statements "Pineapple 'F'" and "Peach" were false and misleading and tended to deceive and mislead

the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons; and in that they were offered for sale under the distinctive names of other articles, food flavors.

On January 25, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28593. Misbranding of canned tomatoes. U. S. v. 638 Cases of Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41255. Sample No. 2667-C.)

This product was substandard because it was not normally colored and was not labeled to indicate that it was substandard.

On December 23, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 638 cases of tomatoes at Bessemer, Ala., alleging that the article had been shipped in interstate commerce on or about September 25, 1937, by Lewis Canning Co. from Tazewell, Tenn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Blue Bird Brand Hand Packed Tomatoes * * * Packed by J. S. Chittum, New Tazewell, Tenn."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture in that the tomatoes were not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 21, 1938, J. S. Chittum, claimant, having admitted the material allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28594. Adulteration of dried apricots. U. S. v. 56 Boxes of Dried Apricots. Default decree of condemnation and destruction. (F. & D. No. 41120. Sample No. 64009-C.)

This product was found to be insect-infested.

On December 16, 1937, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 boxes of dried apricots at Fort George Wright, Wash., alleging that the article had been shipped in interstate commerce on or about June 28, 1937, by Tiedemann & McMorran from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "June 1937 Apricots * * * Tiedemann & McMorran, S. F."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On February 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28595. Misbranding of canned peas. U. S. v. 240 Cases of Canned Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41121. Sample No. 65159-C.)

This product fell below the standard established by this Department, since the peas were not immature and excessive foreign material was present, and it was not labeled to indicate that it was substandard.

On December 15, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnaton of 240 cases of canned peas at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about October 19, 1937, by Thomas Roberts & Co. from Denton, Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Nuttle Brand Early June Peas Packed By Nuttle Canning Company Denton, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since the peas were not immature and it contained excessive foreign material, and its package or label did not bear a plain and conspicuous state-

ment prescribed by regulation of this Department indicating that it fell below such standard.

On February 1, 1938, Fred B. Nuttle, Denton, Md., having appeared as claimant for the Nuttle Canning Co., judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

W. R. Gregg, *Acting Secretary of Agriculture.*

28596. Adulteration and misbranding of orange flavor and imitation lemon and banana flavors. U. S. v. 1 Quart Bottle of Concentrated Imitation Lemon, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 41096, 41214. Sample Nos. 45291–C, 66434–C, 66435–C.)

The lemon and orange flavors contained about 60 percent and the banana flavor contained about 5 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On December 13 and 22, 1937, the United States attorneys for the District of Maryland and the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of two bottles of flavors at Baltimore, Md., and one bottle of flavor at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about August 16 and September 27, 1937, by P. R. Dreyer, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The banana flavor was labeled in part: "P. R. Dreyer Inc. New York N. Y."

The articles were alleged to be adulterated in that substances containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for concentrated imitation lemon, concentrated orange flavor, and concentrated imitation banana flavor, which they purported to be. The lemon and orange flavors were alleged to be adulterated further in that they contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, which might have rendered them injurious to health.

The articles were alleged to be misbranded in that the statements on the labels, "Conc. Imit. Lemon," "Conc. Orange Flavor," and "Concentrated Imitation Banana Flavor," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both, poisons. The banana flavor was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, concentrated imitation banana flavor, a food flavor.

On January 6 and 27, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28597. Adulteration and misbranding of Glyketone. U. S. v. 1 Bottle and 1 Bottle of Glyketone. Default decrees of condemnation and destruction. (F. & D. Nos. 41092, 41093. Sample Nos. 71222–C, 71227–C.)

This product consisted of a glycol or a glycol ether, or both, poisons.

On December 13, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of two bottles of Glyketone at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about March 15, 1937, by P. R. Dreyer, Inc., from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "P. R. Dreyer, Inc., New York, N. Y., Glyketone."

It was alleged to be adulterated in that a glycol or a glycol ether, a poison, had been substituted in whole or in part for Glyketone, a food-flavor solvent, which it purported to be.

Misbranding was alleged in that the statement "Glyketone" was false and misleading and tended to deceive and mislead the purchaser when applied to a glycol or a glycol ether, a poison; and in that the article was sold under the distinctive name of another article, Glyketone, a food-flavor solvent.

On January 21, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28598. Adulteration and misbranding of imitation lemon flavor. U. S. v. 7 Cases of Imitation Lemon Flavor. Default decree of condemnation and destruction. (F. & D. No. 41333. Sample No. 61503–C.)

This product contained about 18 percent of diethylene glycol, a poison.

On January 7, 1938, the United States attorney for the Middle District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of imitation lemon flavor at Greensboro, N. C., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, from Petersburg, Va., by the Spartan Products Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Delight Brand Imitation Lemon Flavor * * * Manufactured by Southern Chemical Co., Petersburg, Va."

It was alleged to be adulterated in that a product containing a poisonous substance, a glycol, had been substituted in whole or in part for a food flavor, which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health.

Misbranding was alleged in that the statement "Imitation Lemon Flavor" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison; and in that the article was offered for sale under the distinctive name of another article, a food flavor.

On February 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28599. Adulteration and misbranding of imitation flavors. U. S. v. 1½ Gallons of Imitation Rum Flavor and Five 1-Gallon Jugs of Imitation Pineapple Flavor. Default decrees of condemnation and destruction. (F. & D. Nos. 41050, 41179. Sample Nos. 55639–C, 73026–C.)

Samples of these products were found to contain 60 percent and 80 percent, respectively, of a glycol or a glycol ether, or both, poisons.

On December 9 and December 18, 1937, the United States attorneys for the Eastern District of Missouri and the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 1½ gallons of imitation rum flavor at St. Louis, Mo., and 5 gallon jugs of imitation pineapple flavor at Malden, Mass., alleging that the articles had been shipped in interstate commerce on or about November 16 and November 23, 1937, by the Felton Chemical Co. from Brooklyn, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Felton Chemical Company, Inc."

They were alleged to be adulterated in that products containing a glycol or a glycol ether, or both, had been substituted wholly or in part for the articles. They were alleged to be adulterated further in that they contained added poisonous or deleterious ingredients, a glycol or a glycol ether, or both, which might have rendered them injurious to health.

They were alleged to be misbranded in that the statements on their respective labels, "Imitation Flavor Pineapple" and "Imitation Rum Flavor," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing a glycol or a glycol ether, or both. The imitation pineapple flavor was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, "Imitation Flavor Pineapple," a food flavor.

On February 11 and March 14, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28600. Adulteration and misbranding of imitation lemon flavor. U. S. v. 120 Bottles of Imitation Lemon Flavor. Default decree of condemnation and destruction. (F. & D. No. 41203. Sample No. 47375–C.)

This product contained carbitol, a commercial solvent composed of a poison—a glycol or a glycol ether, or both.

On December 24, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 120 bottles of flavor at Evansville, Ind., alleging that the article had been shipped in interstate commerce on or about November 22, 1937, from Louisville, Ky., by Vertrees

Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Big-Ten Jr. * * * Imitation Lemon Flavor * * * Vertrees Manufacturing Co. Louisville, Ky."

It was alleged to be adulterated in that a product containing a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for a food flavor, which it purported to be.

The article was alleged to be misbranded in that the statement "Imitation Lemon Flavoring," appearing on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article, a food flavor.

On February 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28601. Adulteration and misbranding of imitation flavor. U. S. v. 2 Bottles of Black Walnut Flavoring. Default decree of condemnation and destruction. (F. & D. No. 41404. Sample No. 75708–C.)

This product contained about 50 percent of carbitol, a solvent composed of a glycol or a glycol ether, or both, poisons.

On January 13, 1938, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two bottles of black walnut flavoring at Kingston, Pa., alleging that the article had been shipped in interstate commerce on or about October 4, 1937, from New York, N. Y., by Ross & Rowe, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Fries 'Tru-Conomy' Flavors * * * Black Walnut Imitation * * * Ross & Rowe, Inc., Sole Distributors, New York, Chicago."

It was alleged to be adulterated in that a product containing a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for a food flavor, which the article purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol or a glycol ether, or both, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the statement "Black Walnut Flavoring" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol or a glycol ether, or both, poisons; and in that it was offered for sale under the distinctive name of another article, a food flavor.

On February 7, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28602. Adulteration of flour. U. S. v. 177 Sacks of Flour. Consent decree of condemnation. Product released under bond to be disposed of for some purpose other than human consumption. (F. & D. No. 40422. Sample No. 43832–C.)

This product was infested with weevils.

On or about October 6, 1937, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 177 sacks of flour at Savannah, Ga., alleging that the article had been shipped in interstate commerce on or about April 1, 1937, from Enid, Okla., by Pillsbury Flour Mills Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Southern-Gold-Medal-Flr-Co Enid-Second-Clear Flr."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On October 29, 1937, General Mills, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be disposed of as animal feed or for some purpose other than human consumption.

W. R. Gregg, *Acting Secretary of Agriculture.*

28603. Misbranding of Strawberry Flow and Raspberry Flow. U. S. v. 30 Cases of Strawberry Flow and 50 Cases of Raspberry Flow. Default decrees of condemnation and destruction. (F. & D. Nos. 40676, 40725. Sample Nos. 10538–C, 10548–C.)

These products consisted respectively of diluted sweetened strawberry and raspberry juice. The Strawberry Flow failed to bear on its label a plain and conspicuous statement of the quantity of contents.

On November 4 and 12, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 80 cases of Strawberry Flow and Raspberry Flow at Philadelphia, Pa., alleging that the articles had been shipped in interstate commerce on or about October 1 and 14, 1937, from Los Angeles, Calif., by Pure Foods Corporation, of Los Angeles, Calif., and charging misbranding in violation of the Food and Drugs Act.

The articles were labeled in part: "Golden Flow Brand Pure Strawberry [or "Raspberry"] Flow * * * Pure Foods Corp. Los Angeles, Calif." The label of the Strawberry Flow bore the printed statement "Net Contents 15 Fl. Oz." An apparent attempt had been made to change the figure "15" to "12" with pencil. However, the "15" was still conspicuous and the "12" illegible.

The Strawberry Flow was alleged to be misbranded in that the statements, "Pure Strawberry Flow * * * 'Drink Your Berries' * * * A Pure Juice Beverage Made from Genuine Strawberries—Sweetened," and the design of juice flowing out of a cornucopia into a glass, were false and misleading and tended to deceive and mislead the purchaser as applied to a diluted sweetened strawberry juice; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the printed statement "Net Contents 15 fl. oz." was not correct.

The Raspberry Flow was alleged to be misbranded in that the statements "Pure Raspberry Fow * * * Fruit Juice Beverage" and the designs of whole raspberries and of juice flowing out of a cornucopia into a glass, were false and misleading and tended to deceive and mislead the purchaser since they represented that the article was raspberry juice; whereas the article was not raspberry juice, and this was not corrected by the inconspicuous statement on the side panel, "the juice and pulp of genuine raspberries—water—sweetened."

On February 18, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28604. Adulteration of crab meat. U. S. v. Carl L. Veach (J. M. Clayton Co.). Tried to the court and a jury. Verdict of guilty. Motion for new trial overruled. Fine, $50 and costs. (F. & D. No. 38651. Sample Nos. 7806–C, 7958–C, 7961–C, 7969–C, 7971–C, 7975–C.)

This product consisted in part of a filthy animal substance.

On April 16, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Carl L. Veach, a member of a partnership trading as the J. M. Clayton Co., Cambridge, Md., alleging shipment by the defendant on or about August 19, 20, 24, 25, and 26, 1936, from the State of Maryland into the District of Columbia and the States of New York, New Jersey, and Delaware of quantities of crab meat that was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance.

On December 10, 1937, the case came on for trial before the court and a jury and was concluded on December 11, 1937. Following the arguments of counsel the court instructed the jury as follows:

Chesnut, *District Judge:* Well, gentlemen of the jury, the custom in this Court is that, at the conclusion of the testimony, it becomes the duty then of the Court to instruct the Jury as to the law of the case and to make some summary of the evidence for the purpose of aiding the jury, possibly, in reaching their verdict.

The proper way to reach a verdict in any law case is to apply the law of the case to the facts of the case as found by the jury, and the product of that logical process is the verdict which you reach. And, of course, the law—certain as it is—has to be applied not to any certain facts, but to a situation in which a judge has to contemplate that the jury may find the facts to be either one way or the other. While the law is certain, the facts are to be determined by the jury. Therefore, the ultimate question of your verdict has to be stated more or less hypothetically because if you find the facts one way then your verdict will be so and so; if you find the facts the other way, then your verdict will be so and so. But in each case you are to take the law which the Judge announces to you and apply it to the facts as you find them.

Now, the relative functions of the judge and the jury in this court are that all matters with regard to the law are to be determined by the judge. That is his responsibility. And the jury need not concern themselves about that other than to accept the law and to apply it to the facts as they find them. If the judge makes a mistake in construing or applying the law, there is a remedy through an appeal. Of course, your verdict on the facts has more finality than that and it is not to be set aside on appeal unless the verdict should be based on evidence that is wholly insufficient.

Now, I might also tell you that this is a case of a criminal nature. That is to say, it is a prosecution by the Government against the defendant on what is known as information, on official information by the United States Attorney. The line of distinction between prosecutions of criminal cases by indictment or by information is drawn with respect to the degree or gravity of the offense charged. The Constitution of the United States provides that for serious crimes, what are called infamous crimes, the prosecution can be only when a grand jury has found a bill of indictment, but for less serious offenses than infamous crimes, the procedure on official information filed by the United States Attorney, based on what seems to be reasonable grounds, although certainly not conclusive grounds, is sufficient.

Now, this particular charge is a charge of violating the Food and Drugs Act, and the maximum penalty is two or three hundred dollars fine. I think there is a possibility, in the discretion of the Court in certain instances, of imprisonment, but that has not been customary in any of these ordinary cases under the Food and Drugs Act. Nevertheless, it is a criminal prosecution and in the weighing of the facts in a criminal case there is a difference in the quantitative amount of the evidence that the jury should have from that rule which prevails in a civil case. In ordinary civil cases, suits for damages, or suits with regard to property between two individuals—citizens—the case is decided on the basis of the preponderance of the evidence. That is to say, which is the weightier evidence, that produced by the plaintiff or that produced by the defendant on the controverted issue of fact? But in a criminal case the burden of proof is on the Government, which is prosecuting the case, to establish the charge made by more than a preponderance of evidence. It has to be by evidence which is sufficiently weighty in your judgment to prove the case beyond a reasonable doubt. And it is right hard to define in abstract terms what is a reasonable doubt. Sometimes it has been said that it is a sufficient amount of proof to be an abiding conviction to a moral certainty of the truth of the charge. Nevertheless, it is not possible to prove any case in any court with the mathematical precision that scientists are accustomed to. All human processes are subject to some error. Therefore, you do not have to be satisfied in such a nice way that every possible lingering, whimsical or imaginary doubt is removed. You have to be satisfied in a practical way beyond a reasonable doubt. That is to say, satisfied more than a mere preponderance of the evidence—the evidence must be such as to carry conviction to your minds of the truth of the charge.

Now, when we come to ask ourselves what this charge is, we find that it is an alleged violation by the defendant of the Food and Drugs Act of Congress passed in 1906. Some or all of you may remember back that far and remember that there was a good deal of discussion as to whether Congress should pass such an act. It was an innovation, of course, at the time, but in the thirty years or more succeeding, certainly those who are habitually in the courts—in this Court, especially—have become familiar with the matter and it is now well-established law. The advance of science, of course, from time to time, has brought about the general public feeling that greater care should be taken with regard to drugs and foods, and this Act of 1906 was

passed by Congress in recognition of that advance in public sentiment with regard to the measure of care that should be taken by people who are dealing in drugs and food products; and that, of course, is for the purpose of protecting the public against spurious, adulterated, and misbranded foods and drugs. Indeed, you have, perhaps, noted in the public press in recent years that quite a number of people are advocating still further extension of Government activity with regard to this subject matter of food and drugs, and bills have been pending in Congress to make the law more rigid than it now is. Of course, we are not here concerned with that in any way, and I only mention it in passing to bring the general subject matter to your attention. What we have to deal with, of course, is the present Act of Congress upon the subject.

Now, the Act is not abstruse or ambiguous, and it has been considered by the courts in a great number of cases and its constitutional validity has been upheld.

Of course, you will realize that the Federal Government has no authority, no power, to deal with the subject matter of food and drugs in so far as it relates only to transactions within a particular State. That is to say, the power in such matters is given to the Federal Government only when there are interstate shipments or transactions. So long as this defendant confines his sales to people in the State of Maryland, it is the State of Maryland and not the Federal Government that has the power to regulate his method of doing business and to say to what extent his food products should be absolutely pure. But when he sells articles in interstate commerce, then the Federal Government has power over interstate commerce and the food and drug acts of Congress relate only to sales made between States, interstate sales, and Congress has always had power over that part of it ever since the formation of the Constitution, because that is one of the express powers delegated to Congress by the Constitution, to regulate interstate commerce, and this Food and Drugs Act is a regulation of interstate commerce. Of course, so far as the District of Columbia is concerned, and the territories where Congress has full power, they can regulate the activities there even though there is no shipment beyond the territory, or beyond the District of Columbia; but so far as Maryland is concerned—one of the original thirteen States—the power of Congress does not extend to intrastate transactions, but it does clearly extend to interstate transactions.

Now, the Government charges in this case that in six separate instances, six separate shipments, each made within the interval of time from about August 19, 1936, to August 26, 1936—within the period of that week, it is charged that the defendant made these six interstate shipments which offended the requirements of the Food and Drugs Act.

Now, the fundamental law is in Section 2 of that Act of 1906, and I will read you the words of it:

"The introduction into any State or Territory, or the District of Columbia, from any other State or Territory, or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of Sections 1 to 15, inclusive, of this title, is prohibited and any person who shall ship or deliver for shipment in interstate commerce articles of such a nature as so defined, is guilty of a misdemeanor, and for such offense shall be fined not exceeding $200 for the first offense, and upon conviction for each subsequent offense not exceeding $300, or be imprisoned not exceeding one year, or both, in the discretion of the court."

As I say, we have not had any cases under the Food and Drugs Act in this Court for many years past where the imprisonment feature has been applied, so far as I know or recall. I only say that, gentlemen, in general comment with regard to the Act because naturally as jurors and citizens, you wish to know whether these Acts are being reasonably administered by the Courts. The fact, however, should not be mistaken that a conviction of this defendant would put it in the power of the Court to impose the maximum penalty authorized by the Act, but that is a matter with which you really have no concern at all—that would be a matter for my judgment and discretion. I am only telling you what has been the general practice in such matters.

Now, when we turn to the definition of what is "adulteration," we find it in Section 8 of the Act, and the term "adulterated" has a special meaning as defined by Congress. It is not the mere, ordinary use of the word "adulterated" as we know it in common speech. Congress has expressly defined what they

mean by "adulterated." After giving a number of definitions, such as the substitution of a spurious element for a genuine element, or the dilution of a product, food products, where it loses its value as food to some extent, or where inferior articles are substituted for genuine articles—those are all illustrations of adulteration—we have nothing directly to do with them in this case because this case is predicated on the provision in the law which defines "adulteration" as follows: "Food"—that is the product, the crab meat, in this case—"Food, which consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance," and so on.

Now, the particular charge made by the Government in this case is that the crab meat shipped by the defendant in these six shipments, or any one of them, contained in part a filthy animal substance. The contention of the Government is that the filthy substance consisted of the fecal matter resulting from uncleanly personal habits of toilet on the part of employees of the defendant who were engaged in picking the claws of crabs, getting the crab meat out with their hands and fingers, and that their hands and fingers were not kept clean after toilet operation. Now, that is the charge made by the Government and the Government must establish to your satisfaction beyond a reasonable doubt that these shipments, or some one of them—because if any one of them offends it is offense pro-tanto—that is to say, to the extent of the one. So it is not necessary for the Government to show that all six had filthy substances in them. If the Government establishes that any one of them had a filthy substance, that would be sufficient. But that is not a very critical distinction in this particular case, because the testimony is similar with regard to each of the six transactions and no doubt if you find existence in one, the same methods would satisfy you in this particular case as to all. But that is a matter for you to determine.

Now, the real question in controversy in the case is whether the crab meat that the defendant packed and shipped in interstate commerce did contain a filthy substance. It is on that point you must be satisfied beyond a reasonable doubt by the evidence in the case.

Now, in dealing with that and in reaching your conclusion about it, it seems to me that there are really three separate questions that you ought to consider. In the first place, you have the question of fact as to whether these shipments contained the substance which the Government contends they did contain, which is described as a fecal variety of *B. coli.* That is to say, portions, small portions of the excrement of human beings, or any animal substance. But in this case the point is that the Government says that the toilet operations of the employees who were engaged in picking and packing these crabs were not cleanly and not kept cleanly, and there was not enough supervision to make them cleanly, to keep their hands clean, as the result of which in picking the crab meat it became contaminated with the dirt and filth, as they call it, from their hands, and that was transmitted into some portion of the crab meat and packed in the cans. Now, that is the contention of the Government.

Now, the Government offers you proof of that by a bacteriologist who is employed in the Government service to make analyses of various products from time to time. He is a young man, a graduate, apparently, of the University of Maryland at College Park. You saw him and heard him on the stand. I do not understand that his qualifications to do this analytical work are directly challenged, but the contention of the defendant is that the process of discriminating by chemical analyses between non fecal bacilli of the colon, and fecal is such a difficult process that they dispute the ability of this gentleman to make that distinction. Now, you must consider for yourselves whether you are convinced that he is qualified to do that, that he did succeed in doing that. He says it is the ordinary routine work of his department, that they are doing it all the time. It is just a matter of no difficulty to him: he has a process, a Government process, by which he can make that discrimination and he is doing it regularly all the time.

Then the defendant produced some testimony to indicate that from its point of view it is practically impossible to make that discrimination. Well, it is for you to say, gentlemen, whether you are satisfied on that by the Government's testimony.

Now, suppose you are satisfied that this bacteriologist did succeed, by analysis, in determining the presence, in the way he says, of these bacterial elements in the crab meat? The next question for you to determine is whether they constitute filthy matter.

Now, on that, as a matter of law, I have to charge you that it is not essential or necessary for the Government to show that the matter was, of itself, harmful to health. That is to say, one definition of adulteration is the inclusion in food products of something which is definitely deleterious or harmful to health. That is one element of the definition, but that is not the element that we are dealing with here, because the language is, "if the substance consists in whole or in part," and "in part" would mean even in small part, "of a filthy substance." One of the objects of this Food and Drugs Act—it is called the Pure Food and Drugs Act—and if some substance gets in which is filthy of its nature, why, then, there has been an offense under the Act and it is not necessary for the Government to prove that substance, if it is filthy, is necessarily of itself, or per se, as one of the witnesses referred to, that is, of itself, directly harmful to health. If it is a filthy substance, the object of the law is to keep it out.

It is, however, a matter that you must find affirmatively, that this crab meat did contain a filthy substance in part. Now, if you can conceive of such a perfectly outrageous thing as an intentional placing of human fecal matter, even in a very small quantity, in the can of crab meat to be sold and eaten by a member of the public, I suppose we would all say that that was a filthy substance to put in there, even though it might, in fact, be not directly harmful in that the person from whom it came may not have been suffering from any disease and it may not be actually deleterious to health. But the point of view of the law with regard to filth in this connection is that bacteria of this kind are liable, of course, to spread and multiply and cause disease; and then, furthermore, the object of the law in condemning the inclusion, even in part or in a small part, of filthy substances is that they want to keep the food and drugs pure. Bacteria, as we know, are liable to multiply greatly and something that may have a sufficient number of bacteria to be harmless at the moment may, of course, sooner or later, by the multiplication of bacteria become really poisonous, so that the object is to keep the food products as clean as possible.

I think you could consider the matter, perhaps more readily, just for illustration and analogy, if you thought of the presence of material of this kind in the milk supply. Now, you know—probably many of you as boys knew that not very much attention was given to the subject of pure or impure milk. Certainly the habits of dairy farms with regard to the production of milk were anything but sanitary forty or fifty years ago as compared to the present condition. Here in Baltimore City I think we all know, as a matter of general information, that very extraordinary precautions are taken by our local Health Department to insure the most sanitary production of milk within an area around Baltimore, which is called the Milk Shed. Not so long ago we had a case in this Court which dealt very specifically with that matter and I think it was said at that time that Baltimore City had the purest and best Milk Shed of any of the large cities of the United States, a very creditable thing which was done, or the inspiration for it, came from the wisdom and scientific knowledge of Dr. William H. Welch, who was, of course, for many years, pathologist at the Johns Hopkins Medical School, and took an interest in local affairs dealing with health, and especially with the purity of the milk supply.

Now, we all know, as a matter of common knowledge, that milk when produced from the cow does have some bacteria in it, and the problem is, by sanitary methods, to keep that down to a bare minimum; and, therefore, it is very desirable in preparing any food product to keep out bacteria to the extent that is reasonably possible, consistent with practical operations. You can not, of course, achieve one hundred percent purity in many food products, certainly not in milk, because the very nature of its production is such that it has some bacteria in it. One operation in the effort to keep milk pure, so far as human consumption is concerned, or at least to keep it harmless so far as human consumption is concerned, is to pasteurize it or sterilize it. Some few dairies around Baltimore—I think the Emerson Dairy out at Brooklandwood was one of them—are allowed to sell unpasteurized milk. That means that they are subject to very rigid precautions in the production of their milk so that the bacteria are kept down to a very small figure.

We are not dealing, of course, here with the problem of milk, and the problem with regard to crab meat may differ in degree from that. I only mentioned the milk problem for the purpose of bringing more clearly to your general understanding the nature of the product. That is to say, to keep foods pure you must keep them as free ordinarily of bacteria—certainly

harmful bacteria—as possible, and if the bacteria are permitted to be there, that is to say bacteria of this nature we are talking about, fecal *B. coli*, the question for the jury to determine is whether it is there in such a way and under such circumstances that it can be regarded as a filthy portion of the food product.

Now, suppose you reach the conclusion, as a matter of fact, that this substance was there in the crab meat, the next question of fact for you to determine is, How did it get there? Did it get there in the packing of the crab meat by the defendant's employees, as the Government contends, or did it get there after the crab meat was packed and shipped in the way suggested by the defendant's cross-examination of some of the witnesses? Counsel for the defendant have endeavored to present to you the possibility, or probability, from their standpoint, that the crab meat contained none of this bacteria when it was packed and shipped from the factory of the defendant, but that the Government inspectors in handling it, put the bacteria in there by the contamination from their hands. Now, that is a question of fact for you to consider. The defendant's counsel have a right to argue that matter before you. The testimony, as I recall it, in substance, from the Government witnesses was that while it is humanly conceivable to be possible that if the inspectors' hands did have these bacteria on them, that their handling of the crab meat might in some way have gotten the substance into the cans, but that it is extremely improbable. That is the testimony of the Government. The defendant's testimony is that it is a possible thing. But it is for you to say whether, from the evidence you have heard in this Court, you think that is one of these speculative, conjectural possibilities that is so remote as to its actually having happened, that you can put it aside as negligible. However, that is a question of fact for you to determine. If you find the bacteria was in the cans when examined and analyzed, but that it was not put there by any employee of the defendant, but by the employees of the Government in their handling of it, why, then, of course, you should find a verdict for the defendant. If you find that the stuff was not there at all, and you are not satisfied that it was there as told you by the analyst, then you should find a verdict for the defendant.

Now, there is just one third thing, in the way of matter of fact evidence that I think you ought to consider in this case, and that is the defendant's contention, as I understand it, that even if this bacteria was there, it was there in such small proportions and got there despite every reasonable precaution to the contrary, that it should be regarded as negligible and as of no consequence. Now, counsel for the defendant will develop that theory before you in argument. I shall not dwell on it at any great length. You have to consider the professional and scientific testimony in this case bearing on that and the somewhat conflicting views expressed by the witnesses on different sides of the case. You have the testimony of Dr. Hunter. You saw and heard him. You can size him up as a witness. On the other hand, you have the testimony of Dr. Damon, of the Johns Hopkins University, who is the bacteriologist over there. Now, Dr. Hunter's view, very definitely and clearly set forth, was that reasonable precautions in the handling and packing of crab meat would have kept this substance out of the cans. On the other hand, Dr. Damon's view, as I understood it—of course, it is for you to determine what impression the testimony made on you, but it seemed, as his testimony went along, that he was seeking to give the impression that the matter was negligible. However, when he was asked whether it was negligible from the standpoint of a health officer, the responsible health officer, I think he qualified that view to some extent.

Now, you gentlemen must determine for yourselves from all of the testimony whether you find that the amount of this bacteria, in a substance put out by the defendant, was of negligible proportions, or whether it could have been eliminated by reasonable precautions. That is a matter for you to determine. Even if it got there in very small quantities and you are satisfied that, as the defendant—I understand—contends, any crab picker whose hands are not surgically clean—which means that they have been washed in antiseptics and sterilized and kept clean every five or ten minutes, like a dentist who washes his hands when he fixes your teeth—if you go to a dentist to have your teeth fixed, every now and then the dentist, if he is a careful scientist, will be washing his hands in order to keep them just as surgically clean as possible—now, the defendant contends in this case that the only way to keep this fecal *B. coli* out of packed crab meat would be to have the operatives wash their hands in sterilized preparations every five minutes—now, if you believe that to be

the case from the testimony, you may say, "Well, that is such an extreme standard of care that it is not practicable with regard to ordinary manufacturing conditions," and that the minute amount of deleterious matter that gets into the food product is negligible. In other words, gentlemen, I want you to consider in this case, the testimony of the defendant that he has done everything that is practicable to do in the manufacture of his product and that insistence upon the standards which are apparently insisted on by the Government Bureau in this case would be an unreasonable insistence and beyond ordinary practical manufacturing conditions. In other words, that the amount of contamination, if any, in the food product here was practically negligible. But that is a question for you to consider. The view of the Government, explained by its witnesses, is definitely that the amount here is not negligible, and that it could have been avoided by reasonable standards of manufacturing under sanitary conditions and by a more rigid supervision of the employees when they go and come back from the toilet as to the washing of their hands. The law does not, of course, expect anything unreasonable from a citizen or scientist in the preparation of his food products, but the law does expect him and require him to conform with the standard of the law when to do so is only in accordance with cautions which are reasonable; possibly, even if they did cost money because the public is entitled to be protected against impure food products and no manufacturer has a right to put out a product which is contaminated to an extent that can be avoided by adequate supervision that is reasonably possible.

Now, I hope I have made that plain and submitted to you the contentions of the defendant as well as of the Government in the matter. Bear in mind, also, gentlemen, that the mere filing of the information in this case is not of itself any evidence against the defendant. You have to find the defendant guilty, if you do find him guilty from the testimony that is submitted to you in this case, and it must be sufficient to satisfy you beyond a reasonable doubt of the truth of the charge.

May I say one other thing, gentlemen? In this court it is the practice very often of the judge to ask questions of witnesses for the purpose of getting the true facts of the case as clearly as possible before the jury. Now, my asking questions in this case was not for the purpose in any way of indicating any opinion that I might have. That is solely a matter for you, and my participation in the development of the testimony was for only one purpose—to sharpen the testimony for your consideration where I thought possibly a question would help to bring out the facts more clearly and definitely than the witness had previously stated them. After all, it is your view of the facts, and not mine—even if I had one and desired to express it—that is to control. This is a case in which the question for the jury is whether the defendant's product is in compliance or noncompliance with those standards set up by the Pure Food and Drugs Act, and the enforcement of laws like this are largely in accordance with the standards of reasonability in interpreting and applying the acts which jurors of a particular community believe should be enforced. If you are satisfied that the defendant has not complied with the Act, why, then you should find him guilty. If, on the other hand, even though you find the presence, technically, of this substance in the product, but that it is not humanly and reasonably possible under ordinary standards to have kept it from being there, then you ought not to exact a measure of regulation from the defendant which is beyond reasonable attainment. On the other hand, if it is possible for him to have complied with the conditions—even at a little greater expense, or more rigid supervision of his employees—he is bound to do that to comply with the Act, all in the interest of the consumer of food to the end that it may be pure as required by the Act.

Now, do counsel desire to note any exceptions to the Charge?

Mr. Frampton: If your Honor pleases, we had some prayers which we wished to submit.

The Court: I will be glad to see them.

Mr. Frampton: You have covered many of the matters in the prayers but, in particular, you said, "If you find that this *B. coli* was filthy," we also suggest that, as the information says, they must also find that it was an animal substance.

The Court: Yes, you are right on that because the information says that it is an animal substance. The statute says, "animal or vegetable," and I

know, Mr. McKendrick, that very often in these indictments, or informations, animal or vegetable, from the standpoint of the law, is unimportant, but from the standpoint of this particular charge you have elected to treat it as an animal substance?

Mr. McKendrick: Well, may it please the Court, I would like to suggest that the view of the administrator, through whom, of course, we have charge of the preparation of this information, is, and I think properly, that in stating in the information here that it consisted of a filthy animal substance, that means, to wit, the crab meat. They say the crab meat, which is an animal substance, was filthy, but that does not mean that the *B. coli* is or is not animal or vegetable.

The Court: Well, the jury has heard the testimony on that. You have charged that it is a filthy animal substance. Now, the jury must find that, of course, if they find a verdict against the defendant.

Mr. Frampton: Counsel in his opening statement limited it to fecal *B. coli*, and all the evidence shows that. May I present these prayers?

The Court. Yes, pass them up, if you will. I have granted you No. 1, No. 2, 3, with some modification, 4 with some modification; rejected 5 and 6. The point of the ruling has already been covered by the Charge, to wit: It is not necessary, in my view of the law, for the Government to prove that the matter found in the cans, if they find it was there, to wit, fecal *B. coli*, was, of itself *per se*, injurious to health. So your propositions which are based on that view are rejected with exceptions noted. It is, however, necessary for the Government to prove that the substance which they call fecal *B. coli* was a filthy substance. I have ruled on the prayers and the Clerk will give them to you.

Have you any more instructions to offer, Mr. McKendrick?

Mr. McKendrick. No.

The Court. Very well, gentlemen, you want to argue it, I assume?

Mr. McKendrick. Yes.

The Court. Do you want to state any length of time that you want to agree upon in argument? The rule of court allows an hour a side. I do not know that you will want that much in this case.

Mr. Frampton. Your Honor, I think we can argue our side—I understand it is permissible for two to argue on a side?

The Court. Certainly.

Mr. Frampton. I can cover my end in not more than ten or fifteen minutes.

Mr. Sasscer. That is all I want.

On December 11, 1937, the jury returned a verdict of guilty. On December 29, 1937, a motion for a new trial was argued and overruled without opinion and the defendant was sentenced to pay a fine of $50 and costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28605. Misbranding of canned cherries. U. S. v. 18 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41200. Sample No. 63294–C.)

This product fell below the standard established by this Department because of the presence of excessive pits and was not labeled to indicate that it was substandard.

On December 23, 1937, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cases of canned cherries at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about November 2, 1937, by Stokely Bros., Inc., from Bellingham, Wash., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Stokely's Finest Pitted Tart Red Cherries Stokely Bros. and Co., Inc. Indianapolis, Ind."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that there was present more than one cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 23, 1938, C. P. Dorr having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled.

W. R. Gregg, *Acting Secretary of Agriculture.*

28606. Adulteration of frozen eggs. U. S. v. 1,300 Cans of Frozen Eggs. Product ordered released under bond. (F. & D. No. 40388. Sample No. 52264–C.)

This product was in part decomposed.

On September 27, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,300 cans of frozen eggs at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about August 30, 1937, by the Washington Cooperative Egg & Poultry Association from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Whole Eggs Washington Cooperative Egg and Poultry Association, Seattle, Washington."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On January 10, 1938, the Washington Cooperative Egg & Poultry Association having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond to be reconditioned. On March 9, 1938, final decree was entered ordering release of good portion and destruction of unfit portion.

W. R. Gregg, *Acting Secretary of Agriculture.*

28607. Adulteration of canned mustard greens. U. S. v. 11 Cases of Canned Mustard Greens. Default decree of condemnation and destruction. (F. & D. No. 40070. Sample No. 33753–C.)

Samples of this product were found to be insect-infested.

On August 11, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cases of canned mustard greens at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about June 26, 1937, by the Dorgan-McPhillips Packing Corporation from Columbia, Miss., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gulf Kist Brand Mustard Greens Distributed By Dorgan-McPhillips Packing Corp. * * * Mobile, Alabama."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On September 13, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28608. Adulteration of tomato catsup. U. S. v. The G. S. Suppiger Co. Plea of guilty. Fine, $200 and costs. (F. & D. No. 39805. Sample No. 18715–C.)

This product contained insect fragments and excessive mold.

On November 27, 1937, the United States attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the G. S. Suppiger Co., a corporation, having a place of business at Belleville, Ill., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 8, 1936, from the State of Illinois into the State of Tennessee of a quantity of tomato catsup which was adulterated. The article was labeled in part: "Inter-Ocean * * * Catsup * * * Packed By Collinsville Canning Co. Collinsville, Ill."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 8, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $200 and costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28609. Adulteration and misbranding of butter. U. S. v. Lloyd Iiams and Ray E. Iiams (Lander Creamery Co.). Pleas of guilty. Fines, $100. (F. & D. No. 39850. Sample Nos. 39046–C, 39482–C.)

This product contained less than 80 percent of milk fat.

On February 7, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Lloyd Iiams and Ray E. Iiams, copartners trading as the Lander Creamery Co., Lander, Wyo., alleging shipment by said defendants in violation of the Food and Drugs Act on or about July 7, 1937, from the State of Wyoming into the State of California of quantities of butter which

was adulterated and misbranded. The article was labeled in part: "Lander Creamery Company Primrose Butter."

It was alleged to be adulterated in that a substance containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of Congress of March 4, 1923.

The article was alleged to be misbranded in that the statement "Butter," borne on the label, was false and misleading, since the article was not butter but was a product containing less than 80 percent by weight of milk fat.

On February 9, 1938, the defendants entered pleas of guilty and the court imposed fines in the total amount of $100.

W. R. Gregg, *Acting Secretary of Agriculture.*

28610. Adulteration and misbranding of candy. U. S. v. 7 Boxes and 7 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. Nos. 40901, 40902. Sample Nos. 61135–C, 61136–C.)

The candy bars in this assortment were insect-infested. Some of them were short of the declared weight, and the wrappers on others bore no statement of the net weight.

On November 23, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 boxes of candy at Huntsville, Ala., alleging that the article had been shipped in interstate commerce on or about November 3, 1937, by the Consolidated Candy Co. from Dallas, Tex.; and charging adulteration of all and misbranding of a portion of the product in violation of the Food and Drugs Act as amended. The boxes each contained a number of small pieces and a number of bars labeled variously: "Kiddo," "Good Time," "Oky-Doky," or "Penny-Anny." A portion of the boxes were labeled: "Scotty Deal Consolidated Candy Co."

The candy bars were alleged to be adulterated in that they consisted in whole or in part of a filthy vegetable substance.

Portions of the said candy bars were alleged to be misbranded in that the statements (Kiddo, Good Time, and Oky-Doky brands) "1½ Oz. or Over," and (Penny-Anny brand) "¾ Oz. or Over," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight; and in that they were food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the packages, since the statement was incorrect. Certain unlabeled bars were alleged to be misbranded in that they were food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On February 19, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28611. Adulteration and misbranding of brewers' rice. U. S. v. 132 Bags of Brewers' Rice. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. No. 40447. Sample No. 37737–C.)

This product was in part insect-infested and the sacks containing it bore no quantity of contents statement.

On October 7, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 132 bags of brewers' rice at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 13, 1937, from Houston, Tex., by Southern Rice Sales Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Misbranding was alleged in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 1, 1938, Southern Rice Sales Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released

under bond conditioned that the unfit portion be segregated and destroyed or denatured so that it could not be disposed of for human consumption.

W. R. Gregg, *Acting Secretary of Agriculture.*

28612. Adulteration of evaporated apples. U. S. v. 300 Cases of Evaporated Apples. Consent decree of condemnation. Product released under bond. (F. & D. No. 40628. Sample No. 62827–C.)

This product was in part wormy, moldy, and decomposed.

On October 28, 1937, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of evaporated apples at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about September 29, 1937, from Bentonville, Ark., by Bentonville Evaporator Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Choice Evaporated Apples * * * Packed by Bentonville Evaporator Co., Bentonville, Arkansas."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 13, 1937, Bentonville Evaporator Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought into compliance with the law under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28613. Adulteration of tomato and celery juice. U. S. v. 4 Cases of Tomato and Celery Juice. Default decree of condemnation and destruction. (F. & D. No. 40708. Sample No. 1133–C.)

Samples of this product were found to be decomposed.

On November 18, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four cases of tomato and celery juice at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about April 11, 1936, from Clearfield, Utah, by Woods Cross Canning Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Celto Brand Tomato and Celery Juice * * * Packed for Blake and Blackinton, Ogden, Utah."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28614. Adulteration of butter. U. S. v. 39 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond conditioned that it be reworked. (F. & D. No. 41800. Sample Nos. 13891–D, 940–D.)

This product was deficient in milk fat.

On February 11, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 tubs of butter at Somerville, Mass., consigned about February 1, 1938, alleging that the article had been shipped by the Farmers Cooperative Creamery Co. from Boyden, Iowa, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, which it purported to be, the act of Congress approved March 4, 1923, providing that butter should contain not less than 80 percent of milk fat.

On February 15, 1938, First National Stores, Inc., Somerville, Mass., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the butter was ordered released under a cash bond conditioned that it be reworked so as to contain at least 80 percent of milk fat.

W. R. Gregg, *Acting Secretary of Agriculture.*

28615. Adulteration of flour. U. S. v. 350 Sacks of Flour (and 2 other seizure actions against the same product). Consent decree of condemnation. Product released under bond to be denatured. (F. & D. Nos. 40639, 41074, 41075. Sample Nos. 38465–C, 56518–C, 57338–C.)

Samples of this product were found to be infested with insects and larvae.

On November 1 and December 13, 1937, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture,

filed in the district court libels praying seizure and condemnation of 832 sacks of flour at Newark and Port Newark, N. J., alleging that the article had been shipped in interstate commerce on or about June 22 and July 6 and 7, 1937, from Fort Worth, Tex., by Burrus Mill & Elevator Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "High Gluten Prudential Flour, Milled Expressly for Prudential Flour Co., Inc., Newark, N. J."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 17, 1938, the cases having been consolidated and Prudential Flour Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be denatured and disposed of for purposes other than as food for human consumption.

W. R. GREGG, *Acting Secretary of Agriculture.*

28616. Adulteration of butter. U. S. v. 124 Tubs of Butter. Decree of condemnation. Product released under bond. (F. & D. No. 41877. Sample Nos. 2938–D, 2939–D.)

This product contained less than 80 percent of milk fat.

On February 15, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 124 tubs of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about January 27, 1938, by Armour Creameries from Enid, Okla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

On February 23, 1938, Armour & Co. having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard.

W. R. GREGG, *Acting Secretary of Agriculture.*

28617. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Decree of condemnation and forfeiture. Property ordered released under bond for repacking and relabeling. (F. & D. No. 41696. Sample No. 13892.)

These potatoes were below the grade represented on the label.

On February 12, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Boston, Mass., alleging that the article had been shipped on or about February 4, 1938, in interstate commerce by the Green Potato Co. from Bridgewater, Maine, and charging misbranding in violation of the Food and Drugs Act. The article was labeled: "U. S. No. 1 Maine Potatoes Green Star Brand Packed by Green Potato Co. Houlton, Me."

It was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. No. 1 grade.

On February 18, 1938, H. E. Gustin Sons, Boston, Mass., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered. It was ordered that the property be released to claimant under bond, conditioned that the potatoes be removed from the sacks and repacked in new sacks to be properly labeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

28618. Adulteration and misbranding of jelly. U. S. v. 27 Cases of Jelly. Default decree of condemnation. Product ordered delivered to welfare organizations. (F. & D. No. 40231. Sample No. 41894–C.)

This product was deficient in fruit juice.

On August 31, 1937, the United States attorney for the District of Columbia, acing upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27 cases of jelly at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about August 6, 1937, by Gold Label Kitchens, Inc., from Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was labeled in part: "Old Mother Hubbard * * * Pure Red Currant Jelly Manufactured by Gold Label Kitchens, Inc. Chicago, Ill."

It was alleged to be adulterated in that it was mixed in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statement "Pure Red Currant Jelly" was false and misleading and tended to deceive and mislead the purchaser when applied to imitation red currant jelly; and in that it was an imitation of and was offered for sale under the distinctive name of another article.

On February 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to welfare organizations.

W. R. Gregg, *Acting Secretary of Agriculture.*

28619. Adulteration of Pine-Cot and pineapple preserves. U. S. v. 19 Cases and 74½ Cases of Assorted Preserves. Consent decree of condemnation. Product released under bond for segregation and destruction of adulterated portion. (F. & D. Nos. 40038, 40039. Sample Nos. 43784–C, 43785–C, 43788–C, 43789–C.)

The Pine-Cot preserves and a portion of the pineapple preserves contained in these assorted preserves were moldy and decomposed.

On or about August 9, 1937, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 93½ cases of assorted preserves at Jacksonville, Fla., alleging that the articles had been shipped in interstate commerce on or about April 16 and June 14, 1937, from Brooklyn, N. Y., by Brook-Maid Food Co., Inc., and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled in part: "Brook-Maid Brand Pure Deluxe Pine-Cot [or "Pineapple"] Preserves * * * Brook-Maid Food Co., Inc., Brooklyn, N. Y."

The Pine-Cot and a portion of the pineapple preserves were alleged to be adulterated in that they consisted in whole or in part of a decomposed and putrid vegetable substance.

On February 2, 1938, the cases having been consolidated and the Brook-Maid Food Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered as to the Pine-Cot and a portion of the pineapple, and the products were ordered released under bond conditioned that all jars of the product which contained mold or were in a fermenting condition be segregated and destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28620. Adulteration of canned tomato and celery juice. U. S. v. 50 Cases of Tomato and Celery Juice. Default decree of condemnation and destruction. (F. & D. No. 41057. Sample No. 1136–C.)

This product was wholly or in part decomposed.

On December 10, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of tomato and celery juice at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about March 13, 1936, by the Perry Canning Co. from Perry, Utah, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Celto Brand Tomato and Celery Juice."

It was alleged to be adulterated in that it consisted wholly or in part of decomposed vegetable substances.

On January 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

J. R. Gregg, *Acting Secretary of Agriculture.*

28621. Misbranding of potatoes. U. S. v. 200 Bags of Potatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 42161. Sample No. 14173–D.)

This product was below the grade declared on the label.

On April 8, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 bags of potatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about April 7, 1938, by B. J. Folsom from Harmony, Maine, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in

part: "Maine Potatoes Grade U. S. No. 1 * * * B. J. Folsom, Harmony, Me."

It was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On April 12, 1938, B. J. Folsom, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the potatoes be resacked and properly labeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

28622. Adulteration and misbranding of vanilla extract. U. S. v. 256 Bottles of Extract of Vanilla. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40686. Sample No. 48410–C.)

This product was deficient in vanilla extractives.

On November 8, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 256 bottles of vanilla extract at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about October 14, 1937, by the Vertrees Manufacturing Co. from Louisville, Ky., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pure Extract Vanilla Vertrees Mfg. Co. Louisville, Ky."

It was alleged to be adulterated in that a hydroalcoholic solution of vanilla, containing less vanilla extractives than are contained in vanilla extract, had been substituted for pure vanilla extract, which it purported to be.

Misbranding was alleged in that the name "Pure Extract Vanilla" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was deficient in vanilla extractive matter.

On February 15, 1938, the Vertrees Manufacturing Co., Louisville, Ky., having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

28623. Adulteration and misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Default decree of condemnation and destruction. (F. & D. No. 41640. Sample No. 9608–D.)

These potatoes were below the grade declared on the label because of excessive grade defects consisting mostly of net necrosis.

On February 5, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about January 28, 1938, by Benjamin Balish Co., Inc., from Houlton, Maine, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "U. S. No. 1 Potatoes Benjamin Balish Co. Inc. Bridgewater, Maine."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

The article was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead purchasers when applied to potatoes below U. S. No. 1 grade.

On February 28, 1938, no claimant having appeared, judgment of condemnation and forfeiture was entered and the property was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28624. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Consent decree of condemnation and forfeiture. Property ordered released to claimant under bond for relabeling. (F. & D. No. 41697. Sample No. 7904–D.)

These potatoes were below the grade represented on the label.

On February 14, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 7, 1938, by Adelman & Gallupe from

Mars Hill, Maine, and charging misbranding in violation of the Food and Drugs Act.

It was alleged to be misbranded in that the statement on the tag, "U. S. No. 1," was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On February 26, 1938, Adelman & Gallupe having appeared as claimant, admitting the truth of the allegations and consenting, judgment of condemnation and forfeiture was entered, and it was ordered that the property be released under bond conditioned that it be relabeled: "Maine Potatoes Unclassified 100 Lbs."

W. R. Gregg, *Acting Secretary of Agriculture.*

28625. Adulteration of Brazil nuts. U. S. v. 130 Bags of Brazil Nuts. Decree of condemnation. Product released under bond. (F. & D. No. 41186. Sample No. 66443–C.)

This product was in part moldy and decomposed.

On December 18, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 130 bags of Brazil nuts at Baltimore Md., alleging that the article had been shipped in interstate commerce on or about September 24, 1937, from New York, N. Y., by Wm. A. Higgins & Co., Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On January 19, 1938, the Great Atlantic & Pacific Tea Co., Baltimore, Md., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

W. R. Gregg, *Acting Secretary of Agriculture.*

28626. Adulteration and misbranding of Fritzbro Solvent. U. S. v. 1 Drum of Fritzbro Solvent V (and 43 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 40868, 40869, 40949, 41008, 41046, 41076, 41082, 41083, 41085, 41086, 41090, 41094, 41095, 41097, 41098, 41104, 41105, 41110, 41115, 41118, 41119, 41123, 41138, 41155, 41170, 41171, 41173, 41191, 41192, 41205, 41208, 41210, 41211, 41218, 41220, 41223, 41225 to 41228, incl., 41231, 41254, 41269, 41285, 41286, 41295, 41313, 41321. Sample Nos. 38472–C, 44286–C, 44292–C, 44295–C, 45041–C, 45259–C, 45837–C, 45838–C, 46653–C to 46656–C, incl., 46690–C, 47294–C, 47297–C, 47594–C, 47595–C, 48554–C, 48558–C, 48559–C, 48766–C, 50555–C, 50556–C, 51675–C, 52166–C, 52320–C, 52321–C, 53580–C, 54367–C, 55088–C, 55090–C, 55091–C, 55256–C, 55502–C, 60600–C, 60602–C, 60671–C, 60697–C, 61418–C, 65165–C, 65445–C, 69032–C, 71067–C, 71225–C, 71229–C, 71230–C, 71232–C, 71304–C, 71754–C, 73051–C.)

The solvents identified as "No. 1" and "No. 1 Special" consisted of a poison—a glycol or a glycol ether, or both. That identified as "Solvent V" consisted of diethylene glycol, which also is a poison.

On various dates between November 18, 1937, and January 5, 1938, libels were filed in 23 United States district courts by the respective United States attorneys, acting upon reports by the Secretary of Agriculture, against a total of 1,177 pounds, and approximately 71 gallons of Solvent No. 1, 48¼ gallons of Solvent No. 1 Special, and 2,826 pounds and 118½ gallons of Solvent V in various lots at Philadelphia, Pittsburgh, Scranton, Harrisburg, and York, Pa.; Denver, Colo.; Atlanta and Macon, Ga.; Salt Lake City, Utah; San Francisco, Sunnyvale, and Los Angeles, Calif.; Somerville, Malden, and Foxboro, Mass.; Paterson and Bridgeton, N. J.; Houston, Tex.; New Orleans, La.; Tampa, Miami, and St. Petersburg, Fla.; Pawtucket, R. I.; Dayton and Cincinnati, Ohio; Cedar Rapids, Iowa; Seattle, Wash.; St. Louis and Kansas City, Mo.; Baltimore, Md.; Lincoln, Nebr.; and Birmingham, Ala. The libels alleged that the articles had been shipped in interstate commerce between March 9 and November 14, 1937, from New York, N. Y., by Fritzsche Bros., Inc., and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Fritzsche Brothers [or "Fritzsche Brothers, Inc."] New York."

They were alleged to be adulterated in that a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for Fritzbro Solvent No. 1, Fritzbro Solvent V, and Fritzbro Solvent No. 1 Special, food-flavor solvents, which they purported to be.

Misbranding was alleged with respect to all lots, with the exception of a few that were unlabeled at the time of seizure, in that the statements, "Solvent No. 1," "Solvent V," and "Solvent No. 1 Special," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to poisons unfit for use as food solvents.

All the products except one small lot of Solvent No. 1 were alleged to be misbranded in that they were sold or offered for sale under the distinctive names of other articles, Solvent No. 1, Solvent V, and Solvent No. 1 Special, food-flavor solvents.

On various dates between December 15, 1937, and May 12, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28627. Adulteration of grapefruit. U. S. v. 462 Boxes of Grapefruit. Consent decree of condemnation. Product ordered destroyed. (F. & D. No. 40100. Sample No. 9603–C.)

This product was in part damaged by drying.

On July 20, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 462 boxes of grapefruit at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 12, 1937, by Leo Tucker from Phoenix, Ariz., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Arizona Desert * * * Packed and Shipped by Southwest Fruit Growers', Inc."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance; in that citrus fruit damaged by drying had been substituted in whole or in part for edible fruit, which it purported to be; and in that a valuable constituent, namely, juice, had been wholly or in part abstracted.

On August 9, 1937, Ralph Terkanian having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered. The decree provided that the product might be taken down under bond for proper segregation under the supervision of this Department. Since it appeared that the product could not be reconditioned in accordance with the terms of the release bond, final decree was entered ordering its destruction and exonerating the bond upon payment of costs.

W. R. GREGG, *Acting Secretary of Agriculture.*

28628. Adulteration and misbranding of unflavored Jell-O. U. S. v. 10 Cases and 29 Cases of Unflavored Jell-O. Default decrees of condemnation and destruction. (F. & D. Nos. 39705, 39706. Sample Nos. 18993–C, 18994–C.)

This product was labeled to indicate that it was plain gelatin; whereas it consisted of gelatin, dextrose, and citric acid.

On June 9, 1937, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 39 cases of unflavored Jell-O at St. Louis, Mo., alleging that the article had been shipped in interstate commerce in part on or about March 31, 1936, by General Foods Sales Co., and in part on or about January 7, 1937, by General Foods Corporation, Jell-O Division, both shipments from Le Roy, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was labeled in part: "Unflavored Jell-O for all recipes calling for Plain Gelatin * * * Pure gelatin mixed with Cerelose (pure dextrose) and sodium citrate Jell-O Division of General Foods Corporation LeRoy, N. Y., Los Angeles, Cal."

It was alleged to be adulterated in that a mixture of gelatin, dextrose, and citric acid had been substituted in whole or in part for gelatin, which it purported to be.

It was alleged to be misbranded in that the following statements borne on the label were false and misleading and tended to deceive and mislead the purchaser when applied to an article that consisted of gelatin, dextrose, and citric acid: (Package and carton) "Unflavored * * * Plain Gelatine"; (circular) "Foundation Recipe fruit jelly"; (envelope) "Unflavored * * * Plain Gelatine. This envelope holds the exact quantity of unflavored Jell-O for one pint of jelly."

On October 5, 1937, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28629. Adulteration and misbranding of butter. U. S. v. A. B. Winkley Cheese Co. Plea of guilty. Fine, $55 and costs. (F. & D. No. 39848. Sample Nos. 33173–C, 33184–C, 33212–C.)

This product was deficient in milk fat.

On March 4, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the A. B. Winkley Cheese Co. a corporation, Seattle, Wash., alleging that on or about June 12 and May 15 and 21, 1937, the defendant had shipped from Seattle, Wash., into the Territory of Alaska, quantities of butter that was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Red Rock Butter * * * Kraft-Phenix Cheese Corporation, * * * Kent, Washington."

It was alleged to be adulterated in that a substance containing less than 80 percent by weight of milk fat had been substituted wholly for what it purported to be, namely, butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

The article was alleged to be misbranded in that the shipping cartons and the wrappers bore a statement regarding it, namely, "Red Rock Butter"; that it was not butter; that it was a product containing less than 80 percent by weight of milk fat; and that the statement aforesaid was false and misleading.

On April 4, 1938, a plea of guilty on behalf of the defendant was entered and the court imposed a fine of $55.

W. R. GREGG, *Acting Secretary of Agriculture.*

28630. Adulteration of tomato catsup. U. S. v. 118 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. No. 40643. Sample No. 62070–C.)

This product contained mold.

On November 3, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 118 cases of tomato catsup at Dubois, Pa., alleging that the product had been shipped in interstate commerce on or about July 13 and September 23, 1937, by the Farm King Packing Corporation from Fredonia, N. Y., and charging adulteration in violation of the Food and Drugs Act. The product was labeled in part: "Sumore Brand Tomato Catsup Packed by Farm King Packing Co., Inc. * * * Fredonia, N. Y."

The product was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On March 31, 1938, a default decree of condemnation, with order of destruction, was entered.

W. R. GREGG, *Acting Secretary of Agriculture.*

28631. Adulteration and misbranding of butter. U. S. v. Turner & Pease Co. Plea of guilty. Fine, $65. (F. & D. No. 39820. Sample Nos. 33169–C, 33171–C, 33187–C, 33192–C, 33193–C, 33198–C, 36052–C, 36053–C.)

This article was deficient in milk fat.

On March 4, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Turner & Pease Co., a corporation, Seattle, Wash., alleging that on or about May 11, 14, 22, 27, and 28, and June 4, 1937, the defendant had shipped from Seattle, Wash., into the Territory of Alaska quantities of butter which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Meadowbrook * * * Butter Turner & Pease Co., Inc., Seattle."

It was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which it purported to be.

The article was alleged to be misbranded in that the statement "butter," borne on the case and on the wrappers, was false and misleading in that it represented that the article was butter, namely, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by law; whereas it contained a less amount.

On March 28, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $65.

W. R. Gregg, *Acting Secretary of Agriculture.*

28632. Adulteration of crab meat. U. S. v. Oswald B. Meredith and Roland S. Meredith (Meredith & Meredith). Pleas of guilty. Fines, $50 and costs. (F. & D. No. 40766. Sample Nos. 47070–C, 67380–C, 67471–C, 67474–C.)

This product contained evidence of the presence of filth.

On February 2, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Oswald B. Meredith and Roland S. Meredith, copartners, trading as Meredith & Meredith, at Wingate, Md., alleging that on or about August 10, 11, and 16, 1937, the defendants had shipped from Wingate, Md., into the State of Pennsylvania quantities of crab meat that was adulterated in violation of the Food and Drugs Act. Portions of the article were labeled in part: "Meredith & Meredith."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 1, 1938, a plea of guilty was entered on behalf of each defendant, and the court imposed a fine of $25 on each defendant.

W. R. Gregg, *Acting Secretary of Agriculture.*

28633. Adulteration of crab meat. U. S. v. Ulman White and Oscar W. Nelson, copartners trading as White & Nelson. Pleas of guilty. Fines, $100 and costs. (F. & D. No. 40763. Sample No. 42252–C.)

This product contained evidence of the presence of filth.

On February 2, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ulman White and Oscar W. Nelson, copartners trading as White & Nelson at Hoopersville, Md., alleging that on or about August 24, 1937, the defendants had shipped in interstate commerce from Hoopersville, Md., into the State of Pennsylvania a quantity of crab meat that was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "White & Nelson Packers and Shippers * * * Hoopersville, Maryland."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 1, 1938, a plea of guilty was entered on behalf of each defendant, and the court imposed a fine of $50 on each defendant.

W. R. Gregg, *Acting Secretary of Agriculture.*

28634. Adulteration of tomato paste. U. S. v. Fredonia Salsina Canning Co. Inc. Plea of guilty. Fine, $100. (F. & D. No. 40752. Sample No. 46502–C.)

This product contained excessive mold.

On January 1, 1938, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Fredonia Salsina Canning Co., Inc., Fredonia, N. Y., alleging that on or about June 25, 1937, the defendant had shipped in interstate commerce from the State of New York into the State of Ohio a quantity of tomato paste that was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Blue Bird Brand, Tomato Paste Packed by Fredonia Salsina Canning Co., Fredonia, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 8, 1938, a plea of guilty was entered on behalf of the defendant and sentence was deferred until March 14, 1938, on which date a fine of $100 was imposed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28635. Adulteration of tomato paste. U. S. v. 416 Cases and 434 Cases of Tomato Paste. Decrees of condemnation. Property ordered released under bond for segregation and destruction of the unfit portion. (F. & D. Nos. 39005, 39071, 39072. Sample Nos. 21678–C, 21696–C, 21697–C.)

This product contained filth resulting from worm infestation.

On January 26 and February 11, 1937, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 850 cases of tomato paste at New Orleans, La., alleging that the product had been shipped in interstate commerce on or about December 3, 1936, by the Anaheim Canning Co. from Anaheim, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Kitty Brand Color Added Tomato Paste * * * Packed by Glorioso Canning Co. Anaheim, Calif."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 5, 1938, the Anaheim Canning Co. having appeared and answered, and having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that the good be separated from the bad under supervision of this Department, and that the bad be destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28636. Adulteration of apples. U. S. v. 140 Bushels of Apples. Consent decree of condemnation. Product released for washing. (F. & D. No. 40470. Sample No. 62277–C.)

This product was contaminated with arsenic and lead.

On or about September 21, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 140 bushels of apples at Fort Worth, Tex., alleging that the article had been shipped in interstate commerce on or about September 17, 1937, from Lincoln, Ark., by A. L Hall, of Fort Worth, Tex., to himself, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On September 22, 1937, A. L. Hall, claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the court ordered that the product might be delivered to the claimant upon payment of costs, providing that the deleterious ingredients be first removed by washing under official supervision.

W. R. Gregg, *Acting Secretary of Agriculture.*

28637. Adulteration and misbranding of butter. U. S. v. 3 Cases and 34 Cases of Butter. Product ordered released under bond for reworking. F. & D. No. 40191. Sample Nos. 53311–C, 53317–C, 53320–C.)

A portion of this product contained less than 80 percent of milk fat; the remainder was short weight.

On August 4, 1937, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 37 cases of butter at Mobile, Ala., consigned by Armour Creameries, alleging that the article had been shipped in interstate commerce from Meridian, Miss., in part on or about July 12, and in part on or about July 26, 1937, and charging misbranding with respect to a portion, and adulteration and misbranding with respect to the remainder in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Armour's Cloverbloom Butter 1 Lb. Net Weight * * * Armour Creameries Chicago U. S. A. Distributors"; (parchment wrapper) "¼ Lb. Net Weight."

A portion of the article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923. The said lot was alleged to be misbranded in that the statement "Butter," borne on the label, was false and misleading and tended to deceive and mislead the purchaser, since it contained less than 80 percent of milk fat.

The remaining lot of the product was alleged to be misbranded in that the statements "1 Lb. Net Weight" and "¼ Lb. Net Weight" were false and misleading and tended to deceive and mislead the purchaser. The said lot was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On September 22, 1937, Armour & Co. having appeared as claimant, judgment was entered ordering that the product be released to the claimant under bond, conditioned that it be reworked to the legal standard, and be made to comply with the requirements of the law in all other respects.

W. R. Gregg, *Acting Secretary of Agriculture.*

28638. Adulteration and misbranding of Gly-Ketol and Solvex. U. S. v. 10 Gallons of Gly-Ketol (and 6 other seizure actions). Decrees of condemnation and destruction. (F. & D. Nos. 41068, 41177, 41195, 41253, 41280, 41312, 41372. Sample Nos. 30197–C, 44287–C, 50576–C, 55093–C, 58042–C, 58043–C, 58065–C, 60611–C.)

These cases involved solvents that consisted of a glycol or a glycol ether, or both, poisons.

On various dates between December 11, 1937, and January 11, 1938, seven United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 13½ gallons of Gly-Ketol and approximately 25 gallons of Solvex in various lots at New Orleans, La.; Richmond, Va.; Miami, Fla.; Salt Lake City, Utah; West Berlin, Mass.; Omaha, Nebr. The libels alleged that the articles had been shipped in interstate commerce on various dates between June 24 and November 30, 1937, from New York, N. Y.; Chicago, Ill.; or Los Angeles, Calif., by Dodge & Olcott Co., of New York, N. Y., and charged adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Dodge & Olcott Company * * * New York."

The articles were alleged to be adulterated in that a glycol or a glycol ether, or both, had been substituted in whole or in part for Solvex and Gly-Ketol, food-flavor solvents, which they purported to be.

All the products except one can of Solvex at Omaha, Nebr., were alleged to be misbranded in that the following statements, "Solvex," "Gly-Ketol," and (one lot of Solvex) "a non-alcoholic solvent for essential oils, vanillin, etc.," borne on the labels, were false and misleading when applied to poisons unfit for use as food solvents. All the products except one can of Solvex at Salt Lake City, Utah, were alleged to be misbranded further in that they were sold or offered for sale under the distinctive names of other articles, Solvex and Gly-Ketol, food-flavor solvents.

On various dates between January 12 and March 28, 1938, the claimant for the can of Solvex at Omaha, Nebr., having consented to the entry of a decree, and no claim having been made for the remaining lots, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28639. Adulteration and misbranding of imitation flavors. U. S. v. 2 Bottles of Imitation Wild Cherry and Imitation Apricot Flavors (and four other seizure actions against similar products). Default decree of condemnation and destruction. (F. & D. Nos. 41002, 41003, 41004, 41202, 41250, 41251, 41252, 41348. Sample Nos. 47674–C, 48785–C, 71207–C, 71208–C, 71209–C, 71235–C, 71236–C, 71237–C.)

These cases involved imitation flavors which consisted in large part of a glycol, or a glycol ether, or both, poisons.

Between the dates of December 4, 1937, and January 7, 1938, three United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 5 gallons and 3 pints of imitation flavors, in various lots, at Indianapolis, Ind., Philadelphia, Pa., and Oklahoma City, Okla. The libels alleged that the articles had been shipped in interstate commerce on various dates between May 3 and November 17, 1937, from New York, N. Y., and Chicago, Ill., by Dodge & Olcott Co., of New York, N. Y., and charged adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Dodge & Olcott Company New York."

The articles were alleged to be adulterated in that they contained an added poisonous or deleterious ingredient, a glycol, or a glycol ether, or both, which

might have rendered them injurious to health. The coconut, grapefruit-pineapple, passion fruit, quince-orange, and strawberry types were alleged to be adulterated further in that a glycol, or a glycol ether, or both, poisons, had been substituted in whole or in part for food flavors, which they purported to be.

Misbranding was alleged in that the statements, "Imitation Wild Cherry [or "Apricot," "Raspberry," "Strawberry," or "Cocoanut"] Flavor," and "Imitation Grapefruit-Pineapple [or "Passion Fruit" or "quince-orange"]," borne on the labels, were false and misleading as applied to products containing a glycol, or a glycol ether, or both, poisons. The imitation coconut, grapefruit-pineapple, passion fruit, strawberry, and quince-orange flavors were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, food flavors.

On January 21, 22, and 31 and March 10, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28640. Adulteration and misbranding of flavors and imitation flavors. U. S. v. 1 Gallon of Flavor Compound Raspberry Imitation, et al. Default decrees of condemnation and destruction. (F. & D. Nos. 40915, 40916, 40952, 41185, 41288, 41289, 41334, 41410, 41411. Sample Nos. 46691–C, 61505–C, 61506–C, 62841–C, 62842–C, 65567–C, 71248–C, 71249–C, 126–D, 127–D.)

These products consisted in large part of a glycol, or a glycol ether, or both, poisons.

Between November 23, 1937, and January 18, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of a total of 7 gallons of flavors and imitation flavors in various lots at Memphis, Tenn.; Lexington, N. C.; Pittsburgh and Philadelphia, Pa.; and Denver, Colo. The libels alleged that the articles had been shipped in interstate commerce between October 1 and December 1, 1937, from New York, N. Y., by Fritzsche Bros., Inc., and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Fritzsche Bros. Inc., New York."

The articles were alleged to be adulterated in that a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food flavors, which they purported to be. All lots, with the exception of one lot of imitation wild cherry, were alleged to be adulterated further in that they contained an added poisonous or deleterious ingredient, a glycol, or a glycol ether, or both, which might have rendered them injurious to health.

Misbranding was alleged in that the following statements on the labels were false and misleading, and tended to deceive and mislead the purchaser when applied to articles containing a glycol, or a glycol ether, or both, poisons: "Flavor Compound Raspberry Imitation," "Flavor Compound Strawberry Imitation," "Flavor Tutti Frutti Imitation," "Flavor Wild Cherry Imitation," "Flavor Compound * * * Wild Cherry," "Flavor Pineapple Imitation," "Flavor Passion Fruit Imitation," and "Flavor Root Beer Number 2." Certain lots were alleged to be misbranded further in that they were offered for sale under the distinctive names of other articles, imitation wild cherry, tutti frutti, pineapple, passion fruit, and root beer flavors.

On various dates between January 4 and March 1, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28641. Misbranding of canned tomatoes. U. S. v. 98 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. & D. No. 40298. Sample No. 7499–C.)

This product fell below the standard established by this Department because the fruit did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On or about September 19, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of canned tomatoes at Norfolk, Va., alleging that the article had been shipped in interstate commerce on or about August 3, 1937, by the Crockett Canning Co.

from Marshallberg, N. C., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Crockett Brand Tomatoes * * * Packed by The Crockett Canning Co. Main Office Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the fruit did not consist of whole or large pieces and its package or label did not bear a plain and conspicuous statement prescribed by the regulations of this Department indicating that it fell below such standard.

On March 31, 1938, the answer of the claimant having been withdrawn, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28642. Misbranding of peanut butter. U. S. v. 240 Cases and 219 Cases of Peanut Butter. Decree of condemnation. Product released under bond for repacking. (F. & D. Nos. 40110, 40111, 40112. Sample No. 52244–C.)

Samples of this product were found to be short weight.

On August 12, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 459 cases of peanut butter at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about July 7, 1937, by the Old Reliable Peanut Co. from Suffolk, Va., and charging misbranding in violation of the Food and Drugs act as amended. The article was labeled in part: "Golden Tint Brand Peanut Butter, Old Reliable Peanut Co., Suffolk, Va., 12 ozs. [or "1 lb."] Net Weight."

It was alleged to be misbranded in that the statements "12 ozs. Net Weight" and "1 Lb. Net Weight" were false and misleading and tended to deceive and mislead purchasers when applied to a product that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated thereon was not correct.

On August 26, 1937, the Old Reliable Peanut Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for repacking under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28643. Adulteration and misbranding of canned shrimp. U. S. v. The Goodman & Beer Co., Inc. Plea of guilty. Fine, $25. (F. & D. No. 39732. Sample No. 13884–C.)

This article was partly decomposed and was slack-filled.

On May 27, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Goodman & Beer Co., Inc., New Orleans, La., alleging that on or about January 18, 1937, the defendant had delivered for shipment from New Orleans, La., to the Republic of Cuba, a quantity of canned shrimp which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Barataria Brand Packed for export only Shrimp * * * Packed For Goodman & Beer Co., Inc."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

The article was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture since it was slack-filled because of excessive headspace, and the label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 7, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $25.

W. R. Gregg, *Acting Secretary of Agriculture.*

28644. Adulteration of cabbage. U. S. v. Ernest H. Wilson. Plea of guilty. Fine, $100. (F. & D. No. 39751. Sample No. 46326.)

This product contained lead and arsenic.

On August 16, 1937, the United States attorney for the District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ernest H. Wilson, Hastings, Fla., alleging that

on or about March 16, 1937, the defendant had shipped from the State of Florida into the District of Columbia a quantity of fresh cabbage which was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, namely, lead and arsenic, which might have rendered it injurious to health.

On February 14, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $100.

W. R. Gregg, *Acting Secretary of Agriculture.*

28645. Adulteration of apples. U. S. v. 53 Baskets of Apples. Default decree of condemnation and destruction. (F. & D. No. 40335. Sample No. 58825-C.)

This product was contaminated with lead.

On September 9, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 baskets of apples at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, from Moorestown, N. J., by J. H. Dennler, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it harmful to health.

On September 30, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28646. Adulteration of cream. U. S. v. 3 Cans of Cream. Consent decree of destruction. (F. & D. No. 40141. Sample No. 42940-C.)

This product was found to be in various stages of decomposition.

On August 6, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two 5-gallon cans and one 8-gallon can of cream at Millvale, Pa., alleging that the article had been shipped in one-can lots in interstate commerce on or about August 5, 1937, from Elm Grove, W. Va., by Elmer Sheets; from Heaters, W. Va., by M. E. Boyce; and from Byron, W. Va., by Mary Pauls, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On August 6, 1937, the consignee having consented to the entry of a decree, the product was ordered destroyed immediately.

W. R. Gregg, *Acting Secretary of Agriculture.*

28647. Adulteration of cream. U. S. v. 11 Cans of Cream. Consent decree of destruction. (F. & D. No. 40142. Sample No. 42941-C.)

This product was found to be in various stages of decomposition.

On August 6, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 5-gallon cans and 9 10-gallon cans of cream at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce in various lots on or about August 5, 1937, from Strasburg, Va., by Walter Johnson; from Winchester, Va., by E. J. Snapp; from Petersburg, W. Va., by D. C. Hinkle; from Culpeper, Va., by W. E. Klipstein; from Fairmont, W. Va., by B. F. Tucker; and from Weston, W. Va., by Grant Lowther, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On August 6, 1937, the consignee having consented to the entry of a decree, the product was ordered destroyed immediately.

W. R. Gregg, *Acting Secretary of Agriculture.*

28648. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. 41755. Sample No. 11851-D.)

This product was below the grade declared on the label because of excess grade defects.

On February 16, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 7, 1938, by E. J. Whitney, of Winn, Maine, from North Lincoln, Maine, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maine Potatoes Grade U. S. No. 1. E. J. Whitney, Winn, Me."

It was alleged to be misbranded in that the statement "Grade U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On February 26, 1938, Benjamin Balish Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be properly relabeled.

W. R. GREGG, *Acting Secretary of Agriculture.*

28649. Adulteration and misbranding of tomato puree. U. S. v. Angelo Glorioso. Plea of guilty. Defendant fined $300 and placed on probation for 3 years. (F. & D. No. 39740. Sample No. 34515–C.)

This product contained less tomato solids than tomato puree should contain.

On June 17, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Angelo Glorioso, New Orleans, La., alleging shipment by said defendant in violation of the Food and Drugs Act on or about June 27, 1936, from the State of Louisiana into the State of Florida, of a quantity of tomato puree which was adulterated and misbranded. The article was labeled in part: "Eagle Brand Tomato Puree * * * Packed by A. Glorioso, New Orleans, La."

It was alleged to be adulterated in that a product deficient in tomato solids had been substituted in whole and in part for tomato puree, which it purported to be.

The article was alleged to be misbranded in that the statement "Tomato Puree," borne on the can label, was false and misleading; and in that the said statement was borne on the label so as to deceive and mislead the purchaser since the article did not consist of tomato puree but did consist of a product deficient in tomato solids.

On March 7, 1938, the defendant entered a plea of guilty and the court imposed a fine of $300 on count 1 of the information. Sentence was suspended on count 2, and the defendant was placed on probation for a period of 3 years.

W. R. GREGG, *Acting Secretary of Agriculture.*

28650. Adulteration of butter. U. S. v. Abram Archer and Thomas Buckley Archer (Archer Produce Co.). Pleas of guilty. Fine, $25. (F. & D. No. 40769. Sample No. 60432–C.)

This product contained less than 80 percent by weight of milk fat.

On March 28, 1938, the United States attorney for the Northern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Abram Archer and Thomas Buckley Archer, copartners trading as Archer Produce Co., Vinita, Okla., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about September 23, 1937, from the State of Oklahoma into the State of Illinois of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On April 18, 1938, pleas of guilty were entered on behalf of the defendants and the court imposed a fine of $25.

W. R. GREGG, *Acting Secretary of Agriculture.*

28651. Adulteration of crab meat. U. S. v. Carol Dryden and A. Earl Dize (Carol Dryden & Co.). Pleas of guilty. Fines, $100 and costs. (F. & D. No. 38619. Sample Nos. 6700–B, 7876–C.)

This product contained evidence of the presence of filth.

On March 17, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture filed in the district court an information against Carol Dryden and A. Earl Dize, copartners, trading as

Carol Dryden & Co., Crisfield, Md., alleging shipment by said defendants in violation of the Food and Drugs Act, on or about August 9, 1934, and August 6, 1936, from the State of Maryland into the State of New York and the District of Columbia, respectively, of quantities of crab meat which was adulterated.

The article was alleged to be adulterated in that it consisted in whole and in part of a filthy animal substance.

On November 19, 1937, the defendants entered pleas of guilty and the court imposed fines totaling $100 and costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28652. Adulteration of walnut meats. U. S. v. Davis Nut Shelling Co. Plea of guilty. Fine, $150. (F. & D. No. 40753. Sample No. 36056–C.)

This product was in part moldy, worm-eaten, rancid, and decomposed.

On January 19, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Davis Nut Shelling Co., a corporation, Los Angeles, Calif., alleging that on or about May 10, 1937, the defendant had shipped from Los Angeles, Calif., into the State of Washington a quantity of walnut meats which were adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On January 24, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $150.

W. R. Gregg, *Acting Secretary of Agriculture.*

28653. Adulteration of crab meat. U. S. v. Ludwig Paul Candies (Des Allemands Sea Food Co.). Plea of guilty. Fine, $100. (F. & D. No. 39801. Sample Nos. 34644–C to 34647–C, incl., 34920–C, 42123–C, 43457–C, 43514–C, 43515–C, 43516–C, 43519–C to 43522–C, incl.)

This product contained evidence of the presence of filth.

On December 3, 1937, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ludwig Paul Candies, trading as Des Allemands Sea Food Co., Des Allemands, La., charging shipment by said defendant in violation of the Food and Drugs Act, on or about May 4, 5, and 14 and June 15 and 21, 1937, from the State of Louisiana into the States of Maryland and Virginia and the District of Columbia, of quantities of crab meat which was adulterated. The information also charged that the defendant on or about May 5, 1937, sold and delivered to Reuther's Sea Food Co., Inc., at New Orleans, La., under a guaranty against adulteration and misbranding within the meaning of the act, a quantity of crab meat; that the said product had been shipped by the purchaser in the identical condition as when received from the State of Louisiana into the State of Georgia, and that it was adulterated. Portions of the article were labeled in part: (Barrels) "Des Allemands Sea Food Co., Allemands, Louisiana."

The article was alleged to be adulterated in that it consisted in whole and in part of a filthy animal substance.

On February 10, 1938, the defendant entered a plea of guilty and a fine of $100 was imposed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28654. Adulteration of prunes. U. S. v. 740 Boxes of Prunes. Consent decree of condemnation. Product released under bond conditioned that it be disposed of for purposes other than human consumption. (F. & D. No. 39249. Sample No. 26762–C.)

Examination of this product showed that it was worm-infested.

On March 22, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 740 boxes of prunes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 29, 1937, by Rosenberg Bros. & Co. from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "For manufacturing purposes only substandard prunes."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On August 21, 1937, the American Fig & Date Co., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was released

under bond conditioned that it might be disposed of as hog feed or for some purpose other than human consumption.

W. R. Gregg, *Acting Secretary of Agriculture.*

28655. Adulteration and misbranding of Lemon and Lime Mixers. U. S. v. 59 Bottles of Lemon Mixer and 63 Bottles of Lime Mixer. Default decree of condemnation and destruction. (F. & D. No. 40041. Sample Nos. 27118–C, 27119–C.)

These products were labeled to indicate that they were fruitade bases; whereas they were mixtures of artificially colored, dilute acid solutions and essential oils containing no fruit juices, and they possessed an acidity of about one-fifth of the average acidity of lemon juice. Moreover, the quantity of the contents was not declared in terms of the largest unit nor in terms of liquid measure.

On or about August 9, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 59 bottles of Lemon Mixer and 63 bottles of Lime Mixer at Bridgeport, Conn., alleging that the articles had been shipped in interstate commerce on or about July 2, 1937, by the Whitehall Food Manufacturing Corporation from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled: "Maison Royal Lemon [or "Lime"] Mixer * * * Royal Bottling Company, Inc., Brooklyn, N. Y."

They were alleged to be adulterated in that imitation lemon or lime juice consisting of an artificially colored, dilute acid solution and essential oil and containing no fruit juice, had been substituted for lemon and lime juices, which they purported to be. They were alleged to be adulterated further in that they were mixed and colored in a manner whereby inferiority was concealed.

The articles were alleged to be misbranded in that the statements "Lemon" and "Lime," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser since they implied that the articles were lemon juice and lime juice, respectively; in that they were offered for sale under the distinctive names of other articles, lemon juice and lime juice; and in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated, "25 ounces" or "25 oz.," was not in terms of the largest unit nor in terms of liquid measure.

On November 30, 1937, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28656. Misbranding of peanut butter. U. S. v. Frank Harris Murphree (Southland Peanut Products Co.). Plea of guilty. Fine, $25. (F. & D. No. 39844. Sample No. 31607–C.)

This product was short weight.

On November 30, 1937, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frank Harris Murphree, trading as the Southland Peanut Products Co., New Brockton, Ala., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 29, 1937, from the State of Alabama into the State of Kentucky of a quantity of peanut butter which was misbranded. The article was labeled in part: "Jackson, Contents 12 ozs. Net When Packed. Peanut Butter * * * Manufactured for A. Wahking & Sons, Louisville, Ky."

It was alleged to be misbranded in that the statement "Contents 12 ozs.," borne on the jar label, was false and misleading since many of the jars contained less than 12 ounces of the article. It was alleged to be misbranded further in that it was food in package form and the true quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 21, 1937, a plea of guilty was entered by the defendant and the court imposed a fine of $25.

W. R. Gregg, *Acting Secretary of Agriculture.*

28657. Adulteration of canned salmon. U. S. v. 510 Cases of Pink Salmon. Consent decree of condemnation. Property released to claimant under bond. (F. & D. No. 38465. Sample Nos. 23766–C, 23796–C.)

A portion of this product was decomposed.

On October 26, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 510 cases of canned

salmon at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about September 24, 1936, by Libby, McNeill & Libby from Craig, Alaska, and charging adulteration in violation of the Food and Drugs Act.

It was alleged that the article was adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 28, 1938, Libby, McNeill & Libby, having appeared as claimant and having consented, judgment of condemnation and forfeiture was entered; and it was ordered that the property be released to the claimant under bond conditioned that the bad be separated from the good under the supervision of this Department, and that the product should not be disposed of in violation of the law.

W. R. Gregg, *Acting Secretary of Agriculture.*

28658. Adulteration of candy. U. S. v. 11 Boxes of Kandy Kones (and 3 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 40912, 40913, 40995, 41016. Sample Nos. 53552–C, 53553–C, 53570–C, 53571–C.)

These products were infested with insects.

On November 26 and December 2 and 10, 1937, the United States attorney for the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 21 boxes of candy at Kingsville and 24 boxes at Laredo, Tex., alleging that the articles had been shipped in interstate commerce on or about September 8 and 20 and October 28, 1937, from New Orleans, La., by the Pelican State Candy Co., and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Kandy Kones [or "Ice Cream Cones," "Pussy Willow," or "Peco Squares"] * * * Pelican State Candy Co., New Orleans, La."

They were alleged to be adulterated in that they consisted in whole or in part of a filthy vegetable substance.

On January 7 and 25 and February 1, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28659. Adulteration of butter. U. S. v. 94 Tubs of Butter. Decree of condemnation and forfeiture. Product ordered released under bond to be reworked. (F. & D. No. 41802. Sample Nos. 2222–D, 2223–D.)

This product contained less than 80 percent of milk fat.

On February 4, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 94 tubs of butter at St. Paul, Minn., alleging that the article had been shipped in interstate commerce on or about January 24, 1938, by Armour Creameries from Mitchell, S. Dak., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of Congress of March 4, 1923.

On February 19, 1938, Armour & Co. having appeared as claimant and having admitted all of the material allegations of the libel, judgment of condemnation was entered and it was ordered that the product might be released to the claimant under bond conditioned that it be reworked so that it complied with the law.

W. R. Gregg, *Acting Secretary of Agriculture.*

28660. Adulteration and misbranding of oil. U. S. v. 676 Gallons of Oil. Consent decree of condemnation. Product released under bond for repacking and relabeling. (F. & D. No. 37531. Sample No. 61568–B.)

This product was represented to consist of cottonseed oil and olive oil; whereas it consisted chiefly of vegetable oils other than said oils and was artificially colored.

On April 6, 1936, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 676 gallons of oil at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about March 11, 1936, by Vincent Buonocore from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Fine Oil Boncore Brand."

It was alleged to be adulterated in that vegetable oils other than olive oil or cottonseed oil had been mixed and packed with it so as to reduce or lower its quality or strength, and had been substituted in whole or in part for the article.

It was alleged to be misbranded in that the following statements appearing on the label were false and misleading and tended to deceive and mislead the purchaser when applied to a product consisting chiefly of vegetable oils other than olive or cottonseed oil: (Main panels) "Eighty per cent cottonseed oil and twenty per cent olive oil"; (side panels) "* * * composed of eighty per cent cottonseed oil and twenty per cent olive oil." It was alleged to be misbranded further in that it was an imitation of olive oil, artificially colored and flavored, and was not so labeled.

On April 19, 1938, Vincent Buonocore, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be repacked and properly labeled.

W. R. Gregg, *Acting Secretary of Agriculture.*

28661. Adulteration and misbranding of imitation wild cherry flavor. U. S. v. 1 Bottle of Imitation Cherry Flavor (Wild). Default decree of condemnation and destruction. (F. & D. No. 41213. Sample No. 71242–C.)

This product contained about 60 percent of diethylene glycol, a poison.

On December 23, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one bottle of imitation wild cherry flavor at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about August 17, 1937, from New York, N. Y., by Florasynth Laboratories, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Florasynth Laboratories, Incorporated, New York."

It was alleged to be adulterated in that a product containing a glycol, a poison, had been substituted in whole or in part for "Imitation Cherry Flavor (Wild)," which it purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the statement "Imitation Cherry Flavor (Wild)" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison; and in that it was offered for sale under the distinctive name of another article, a food flavor.

On January 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28662. Adulteration and misbranding of Gly-Ketol and Glyco-Ester. U. S. v. One 5-Gallon Can of Gly-Ketol (and 3 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41124, 41135, 41314, 41486. Sample Nos. 51683–C, 71302–C, 71760–C, 1923–D.)

These products were composed of a glycol or a glycol ether, or both, poisons.

On December 15, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one 5-gallon can of Gly-Ketol at Birmingham, Ala. On December 17 and 31, 1937, and on or about January 24, 1938, libels were filed against 3 gallons of Gly-Ketol at Seattle, Wash.; 6½ pounds of Glyco-Ester at Scranton, Pa.; and 18½ pounds of Glyco-Ester at Indianapolis, Ind. The libels alleged that the articles had been shipped in interstate commerce on various dates between September 18 and December 14, 1937, in part by W. J. Bush & Co., from New York, N. Y., and Linden, N. J., and in part by W. J. Bush Citrus Products Co., from Oakland, Calif.; and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled: "W. J. Bush & Co. New York." One lot was labeled "W. J. Bush & Co. Incorporated New York * * * California Works National City, Cal."

The articles were alleged to be adulterated in that a poisonous substance, a glycol or a glycol ether, or both, had been substituted in whole or in part for Glyco-Ester and Gly-Ketol, food-flavor solvents, which they purported to be.

They were alleged to be misbranded in that the designations "Glyco-Ester" and "Gly-Ketol," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to products unfit for use as food-flavor solvents. Misbranding was alleged further in that the articles were sold under the distinctive names of other articles, Glyco-Ester and Gly-Ketol, food-flavor solvents.

On January 20 and 26 and March 26, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28663. Adulteration and misbranding of canned prunes. U. S. v. 647 Cans and 497 Cans of Prunes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. Nos. 41670, 41671. Sample Nos. 1857-D, 1858-D.)

This product was labeled "4÷1," a designation that indicates 4 parts of fruit to 1 part of dry sugar. It contained a smaller proportion of sugar than that indicated, and also added water.

On February 10, 1938, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,144 cans of prunes at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about September 28 and October 2, 1937, by the Sunshine Packing Corporation from Erie, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Italian Prunes 4÷1 * * * Packed By Sunshine Packing Corp. North East, Pa."

It was alleged to be adulterated in that a substance containing less sugar than was indicated in the labeling, and added water, had been substituted wholly or in part for the article.

The article was alleged to be misbranded in that the statement "4÷1" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing less than 20 percent of sugar, and containing added water.

On March 1, 1938, the libels having been consolidated, and the Sunshine Packing Corporation having appeared, having admitted the allegations contained in the libels, and having consented, judgment of condemnation was entered and the product was ordered released under bond for relabeling.

W. R. Gregg, *Acting Secretary of Agriculture.*

28664. Adulteration of tomato paste. U. S. v. 700 Cases of Tomato Paste. Consent adjudication and decree sustaining the allegations of the libel. Property released under bond. (F. & D. No. 39050. Sample No. 6536-C.)

Samples of this product were found to contain filth resulting from worm infestation.

On February 5, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 700 cases of tomato paste at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about November 9, 1936, by Calliguria Food Products Corporation from Long Beach, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Vulcania Brand California Tomato Paste * * * Distributed by Calliguria Food Product Corp. Los Angeles, Calif."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On August 9, 1937, the Italian Food Products, Inc., having appeared as claimant and having admitted the allegations of the libel, judgment was entered sustaining the said allegations, and ordering that the product be released under bond conditioned that it should not be sold or disposed of contrary to the provisions of the Food and Drugs Act.

W. R. Gregg, *Acting Secretary of Agriculture.*

28665. Adulteration of butter. U. S. v. 14 Tubs of Butter. Decree of condemnation and forfeiture. Property ordered released under bond. (F. & D. No. 41800. Sample No. 2934–D.)

This product was deficient in milk fat.

On February 7, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 tubs of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about January 13, 1938, by the Beatrice Creamery Co. from Topeka, Kans., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as prescribed by act of March 4, 1923.

On February 15, 1938, the Wilsey Bennett Co., San Francisco, Calif., having appeared as claimant, judgment of condemnation was entered, and it was ordered that the butter be released to the claimant under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28666. Alleged adulteration and misbranding of preserves and jellies. U. S. v. 430 Cases of Preserves and Jellies (and 3 other seizures of similar products). Tried to the court. Libels ordered dismissed. (F. & D. Nos. 38437, 38521, 39039, 39040, 39199. Sample Nos. 3074–C, 3075–C, 9913–C, 10201–C, 10223–C to 10228–C, incl., 10472–C, 10473–C, 10474–C, 10476–C.)

On November 16, 1936, and February 8 and March 11, 1937, the United States attorney for the District of Arizona, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 470 cases and 2,573 jars of assorted preserves and jellies in various lots at Phoenix and Tucson, Ariz., alleging that the articles had been shipped in interstate commerce on or about July 2 and 22, September 8 and 24, October 5, 1936, January 2 and 20 and February 2, 1937, from Los Angeles, Calif., by the Kopper Kettle Syrup Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part: "Kopper Kettle Brand * * * Kopper Kettle Syrup Co. Los Angeles."

The libels alleged in substance that the articles were adulterated in that there had been mixed and packed with them, so as to reduce or lower their quality, one or more of the following substances, viz: Sugar, pectin, acid, or fruit moisture, or water which should have been removed by boiling. They were alleged to be adulterated further in that mixtures containing less fruit or fruit juice and more sugar than preserves and jellies should contain had been substituted for preserves and jellies, which they purported to be; and in that the aforesaid substances had been mixed with the said preserves and jellies in a manner whereby inferiority was concealed.

The articles were alleged to be misbranded in that the following statements borne on the labels, "Pure Strawberry [or "Peach," "Apricot," "Red Raspberry," "Blackberry," or "Loganberry"] Preserves," and "Pure Concord Grape [or "Strawberry," "Crabapple," "Red Currant," "Plum," "Blackberry," "Youngberry," or "Red Raspberry"] Jelly," were false and misleading and tended to deceive and mislead the purchaser when applied to articles resembling preserves and jellies, but which allegedly were not preserves or jellies; and in that they were imitations of and were offered for sale under the distinctive names of other articles, preserves and jellies.

J. D. Armstrong and B. D. Topf, copartners trading as the Kopper Kettle Syrup Co., having appeared as claimants, the cases were consolidated and came on for trial before the court without a jury on October 26, 1937. At the conclusion of the Government's case, upon motion of the claimants, the libels were dismissed as to the jellies. A motion to dismiss as to the preserves was overruled. The trial was resumed and concluded on October 28, 1937, and the issues were submitted to the court on briefs. On January 6, 1938, the court made its finding that the preserves were not adulterated or misbranded and on January 18, 1938, entered judgment that the libels be dismissed and the preserves released to the claimants—the jellies having been released by order dated October 29, 1937.

W. R. Gregg, *Acting Secretary of Agriculture.*

28667. Adulteration and misbranding of Salvinol and Glyhydrol. U. S. v. One Drum of Salvinol 500 (and 9 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 41037, 41038, 41067, 41069, 41125, 41126, 41128, 41130, 41131, 41158, 41172, 41193. Sample Nos. 9664–C, 9665–C, 13974–C, 36780–C, 36781–C, 44385–C, 50577–C, 50668–C, 50669–C, 54361–C, 60599–C, 64004–C.)

These products consisted of a glycol or a glycol ether, or both, poisons.

On various dates between December 7 and 22, 1937, libels were filed in seven United States district courts by their respective United States attorneys, acting upon reports by the Secretary of Agriculture, praying seizure and condemnation of a total of 488¾ gallons of the hereinafter-described products in various lots at Los Angeles, Calif.; Atlanta, Ga.; New Orleans, La.; Spokane, Wash.; Terre Haute, Ind.; Winston Salem, N. C.; and Salt Lake City, Utah. The libels alleged that the articles had been shipped in interstate commerce on various dates between August 25, 1934, and November 5, 1937, from New York, N. Y., and San Francisco and Los Angeles, Calif., by Florasynth Laboratories, Inc.; and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Salvinol 500 [or "Salvinol No. 500 Extra"] * * * Florasynth Laboratories, Inc. * * * New York, N. Y."; "Florasynth Laboratories, Salvinol 225 [or "Glyhydrol"] New York, N. Y."; "Florasynth Laboratories, Inc. * * * Salvinol 500 [or "Glyhydrol"]."

The articles were alleged to be adulterated in that a glycol or a glycol ether, or both, poisons, had been substtiuted in whole or in part for food-flavor solvents, which the articles purported to be.

The articles, except one unlabeled can of Salvinol No. 250, were alleged to be misbranded in that the statements. "Salvinol 500," "Glyhydrol," "Salvinol No. 500 Extra," and "Salvinol 225," borne on the labels, were false and misleading and tended to deceive and mislead the purchaser when applied to a poison unfit for use as a food-flavor solvent. All the articles were alleged to be misbranded in that they were offered for sale under the distinctive names of other articles, Salvinol 500, Salvinol No. 250, Glyhydrol, Salvinol No. 500 Extra, and Salvinol 225, food-flavor solvents.

On various dates between January 6 and April 28, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28668. Adulteration and misbranding of artificial glycerin. U. S. v. 550 Pounds of Artificial Glycerin. Default decree of condemnation and destruction. (F. & D. No. 41091. Sample No. 58031–C.)

This product contained about 60 percent of diethylene glycol, a poison.

On December 17, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 550 pounds of artificial glycerin at Petersburg, Va., alleging that the article had been shipped in interstate commerce on or about February 17, 1937, from New York, N. Y., by Florasynth Laboratories, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "From Florasynth Laboratories, Inc. * * * New York * * * Artificial Glycerine."

It was alleged to be adulterated in that a substance, a mixture of sugars, water, and a glycol, a poison, had been substituted for artificial glycerin, a food solvent, which the article purported to be; and in that it contained an added poisonous or deleterious ingredient, a glycol, which might have rendered it injurious to health.

The article was alleged to be misbranded in that the statement "Artificial Glycerine" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing a glycol, a poison; and in that it was offered for sale under the distinctive name of another article, artificial glycerin.

On February 4, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28669. Adulteration of cream. U. S. v. 12 Cans of Cream. Consent decree of destruction. (F. & D. No. 40143. Sample No. 42942–C.)

This product was found to be in various stages of decomposition.

On August 7, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 12 10-gallon cans of cream at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about August 6, 1937, in various lots from Phillipi, W. Va., by Kermit Haller; from Berkeley Springs, W. Va., by R. S. Unger; from Romney, W. Va., by B. M. Grim; from Charles Town, W. Va., by M. K. Bowers; from Strasburg, Va., by Walter Johnson; from Weston, W. Va., by Magnus C. White; and from Ellenboro, W. Va., by E. Paige Hickman, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, putrid, or decomposed animal substance.

On August 7, 1937, the consignee having consented to the entry of a decree, the product was ordered destroyed immediately in view of its perishable nature.

W. R. Gregg, *Acting Secretary of Agriculture.*

28670. Adulteration of butter. U. S. v. 34 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 40672. Sample Nos. 56816–C, 57105–C.)

This product contained less than 80 percent of milk fat.

On October 26, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about October 15, 1937, from Baltimore, Md., by Chesapeake Creameries, Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On October 28, 1937, Chesapeake Creameries, Inc., Baltimore, Md., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

W. R. Gregg, *Acting Secretary of Agriculture.*

28671. Adulteration of candy. U. S. v. 39 Cartons and 35 Cartons of Candy. Default decree of condemnation. Product destroyed. (F. & D. Nos. 40723, 40724. Sample Nos. 61161–C, 61162–C.)

Samples of this product were found to be insect-infested; others contained rodent hair, excreta, and nondescript dirt.

On November 23, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 74 cartons of candy at Meridian, Miss., alleging that the article had been shipped in interstate commerce in part on or about September 10, 1937, and in part on or about September 21, 1937, by the Specialty Candy Co., Inc., from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Peco Nut Squares [or "Jumbo Mint Lumps"] Manufactured by Specialty Candy Co., Inc., New Orleans, La."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance rendering it unfit for consumption as a food.

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was destroyed by the United States marshal.

W. R. Gregg, *Acting Secretary of Agriculture.*

28672. Adulteration and misbranding of Glycopon. U. S. v. 1 Drum containing 400 Pounds of Glycopon 2A (and 5 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 40963, 41066, 41212, 41283, 41310, 41524. Sample Nos. 28446–C, 44290–C, 44291–C, 48092–C, 56737–C, 58062–C, 7990–D.)

These cases involved six lots of solvents of which five consisted entirely of a glycol or a glycol ether, a poison; and one which contained about 35 percent of a glycol, a poison.

On November 30, 1937, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1 drum of Glycopon 2A at Baltimore, Md. On various dates between December 10, 1937, and January 22, 1938, libels were filed against 34 pounds of Glycopon S at Erie, Pa.; 3 gal-

lons of Glycopon AAA and 5 gallons of Glycopon S at Miami, Fla.; 9 gallons of Glycopon S at Union City, N. J.; 1 gallon of Glycopon AA at Petersburg, Va.; and 11 pints of Glycopon AAA at Newark, N. J. The libels alleged that the articles had been shipped in interstate commerce on various dates between January 12 and October 25, 1937, from New York, N. Y., by Glyco Products Co., Inc.; and charged adulteration and misbranding in violation of the Food and Drugs Act. Portions of the articles were labeled in part: "Glyco Products Co., Inc. New York, N. Y."

The articles were alleged to be adulterated in that a glycol or a glycol ether, or both, poisons, had been substituted in whole or in part for food-flavor solvents, which they purported to be. The product designated "Glycopon 2A" was alleged to be adulterated further in that it contained an added poisonous or deleterious ingredient, diethylene glycol, which might have rendered it injurious to health.

The articles, except one lot designated "Glycopon AA," were alleged to be misbranded in that the statements on their respective labels, "Glycopon 2A," "Glycopon S," and "Glycopon AAA," were false and misleading and tended to deceive and mislead the purchaser when applied to products consisting of or containing a glycol or a glycol ether, a poison. All lots were alleged to be misbranded in that they were sold under the distinctive names of other articles, "Glycopon 2A [or "S," "AAA," or "AA"]," food-flavor solvents.

On various dates between January 5 and March 23, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28673. Misbranding of canned cherries. U. S. v. 17 Cases of Pitted Red Cherries. Consent decree of condemnation. Product ordered delivered to charitable institution. (F. & D. No. 40438. Sample No. 39832-C.)

This product was substandard because it contained more than 1 cherry pit per 20 ounces of net contents, and it was not labeled to indicate that it was substandard.

On January 7, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 cases of canned pitted red cherries at Laramie, Wyo., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from Denver, Colo., by the Morey Mercantile Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Silver Band * * * Pitted Red Cherries Packed for and Fully Guaranteed by The Morey Mercantile Co. Colorado."

It was alleged to be misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, and the cans did not bear labels with a plain and conspicuous statement showing that the food contained therein fell below such standard.

On February 16, 1938, the Morey Mercantile Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered with provision that the claimant might take the product down under bond for relabeling. On April 15, 1938, the product was ordered delivered to a charitable institution because of failure of the claimant to file release bond.

W. R. Gregg, *Acting Secretary of Agriculture.*

28674. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41735. Sample No. 16804-D.)

This product was below the grade declared on the label.

On February 9, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Cincinnati, Ohio, consigned about February 3, 1938, alleging that the article had been shipped in interstate commerce by Britton & Lowery from Monticello, Maine, and charging misbranding in violation of the Food and Drugs Act. The article was labeled: "Grade U. S. No. 1 B & L Brand Britton & Lowery * * * Monticello, Maine."

It was alleged to be misbranded in that the statement "Grade U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. Grade No. 1.

On February 24, 1938, Mandell Bros. having appeared as claimant, admitting the truth of the allegations and consenting, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of this Department.

W. R. Gregg, *Acting Secretary of Agriculture.*

28675. Adulteration and misbranding of maple butter compound. U. S. v. J. Roger Charbonneau and Joseph Charbonneau (New Bedford Specialty Co.). Pleas of guilty. Fines, $20. (F. & D. No. 39813. Sample No. 20598–C.)

This product was represented to be home-made maple butter compound; whereas it was a compound of glucose, starch, sugar, and skim milk that contained little, if any, maple sugar.

On November 15, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against J. Roger Charbonneau and Joseph Charbonneau, copartners, trading as New Bedford Specialty Co., New Bedford, Mass., alleging that on or about April 17, 1937, the defendants shipped from the State of Massachusetts into the State of Rhode Island a quantity of maple butter compound which was adulterated and misbranded in violation of the Food and Drugs Act. The product was labeled in part: "Home Made Maple Butter Compound E. R. Jodoin, S. Manchester, Conn. * * * Contains milk, glucose, corn starch, cane sugar and maple flavoring."

The article was alleged to be adulterated in that a mixture of glucose, starch, sugar, and skim milk in which there was little, or no, maple sugar, had been substituted for home-made maple butter, which it purported to be; and in that it was inferior to home-made maple butter and had been mixed in a manner whereby its inferiority to home-made maple butter was concealed.

It was alleged to be misbranded in that the statements, "Home Made Maple Butter" and "E. R. Jodoin, S. Manchester, Conn.," borne on the packages containing it were false and misleading and were borne on the packages so as to deceive and mislead the purchaser in that they represented that the article consisted wholly of home-made maple butter, and that it was made by E. R. Jodoin, S. Manchester, Conn.; whereas it did not consist wholly of home-made maple butter but consisted of glucose, starch, sugar, and skim milk and contained little, if any, maple sugar; in that it had been made by the New Bedford Specialty Co., New Bedford, Mass.; and in that it was a product prepared in imitation of home-made maple butter, and was offered for sale and sold under the distinctive name of another product, home-made maple butter.

On March 29, 1938, a plea of guilty was entered on behalf of each of the defendants, and the court imposed a fine of $10 on each.

W. R. Gregg, *Acting Secretary of Agriculture.*

[1] Contains instructions to the jury.

[2] Contested seizure.

U. S. GOVERNMENT PRINTING OFFICE: 1938

F13N

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28676–28750

[Approved by the Acting Secretary of Agriculture, Washington, D. C., August 24, 1938]

28676. Adulteration and misbranding of ether (ethyl oxide). U. S. v. 40 Cans labeled "Ether U. S. P. 10 * * * (Ethyl Oxide U. S. P. XI)." Default decree of condemnation and destruction. (F. & D. No. 41827. Sample No. 18392–D.)

Nine of ten cans of this product that were analyzed contained peroxide.

On February 25, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cans of ether (ethyl oxide) at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about January 22, 1938, from Rahway, N. J., by Merck & Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, "Ethyl Oxide," it differed from the standard of strength as determined by the test laid down in the pharmacopoeia, and its own standard of strength was not stated on the container; and in that its strength fell below the professed standard and quality under which it was sold, "Ether U. S. P. 10," in that it contained peroxide.

It was alleged to be misbranded in that the statements on the label, "Ethyl Oxide U. S. P. XI" and "Ether U. S. P. 10," were false and misleading when applied to an article that contained peroxide.

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28677. Adulteration and misbranding of absorbent cotton. U. S. v. 720 Packages of Absorbent Cotton. Default decree of condemnation and destruction. (F. & D. No. 38329. Sample No. 8435–C.)

This product was represented to be sterile, whereas it contained viable microorganisms.

On September 25, 1936, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 720 packages of absorbent cotton at Albany, N. Y., alleging that the article had been shipped in interstate commerce on or about June 18, 1936, by Johnson & Johnson from New Brunswick, N. J., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Scientifically sterilized * * * Ward's Absorbent Cotton Surgical Grade Distributed by Montgomery Ward & Co., Chicago."

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, namely, "sterilized," since it was not sterile but contained viable micro-organisms.

It was alleged to be misbranded in that the following statements on the cartons were false and misleading since it was not sterile and was not fit for surgical purposes: (Large carton) "Sterilized * * * Surgical Grade"; (small cartons) "Scientifically Sterilized * * * Surgical Grade."

On March 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28678. Adulteration and misbranding of Nevins Solution Argyrol, Nevins Antiseptic Baby Oil, and Nevins Saltabs. U. S. v. Morris Soble, Harry S. Sylk, Albert J. Sylk, Bernard Weinberg, and William H. Sylk (Nevins Drug Co.). Pleas of nolo contendere. Fine, $500. (F. & D. No. 40774. Sample Nos. 42214–C, 42228–C, 42232–C.)

This case involved Solution Argyrol which contained less argyrol than declared on the label, Antiseptic Baby Oil which was represented to be an antiseptic and to contain an appreciable amount of olive oil but which was not antiseptic and contained not over 5 percent of olive oil, and Nevins Saltabs which were labeled to indicate that they derived their laxative properties from Epsom salt but derived such properties from phenolphthalein.

On February 25, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Morris Soble, Harry S. Sylk, Albert J. Sylk, Bernard Weinberg, and William H. Sylk, copartners trading as Nevins Drug Co., alleging shipment by said defendants in violation of the Food and Drugs Act between the dates of April 8 and May 23, 1937, from the State of Pennsylvania into the State of Maryland of quantities of the hereinafter-described drug preparations which were adulterated and misbranded. The articles were labeled variously: "Nevins Solution Argyrol 5% * * * Nevins Laboratories, Phila. Penn. Distributors"; "Nevins Hospital Brand Antiseptic, U. S. P. Baby Oil. * * * Nevins Drug Stores, Phila. Penna.'; "A Nevins Product Saltabs * * * Nevins Laboratories, Phila., Pa., Distributors."

The Solution Argyrol was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold since it was represented to contain 5 percent of argyrol; whereas it contained less than represented, namely, not more than 2.95 percent of argyrol. It was alleged to be misbranded in that the statement "Solution Argyrol 5%," borne on the bottle label, was false and misleading.

The Antiseptic Baby Oil was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold since it was represented to be an antiseptic and to contain an appreciable amount of olive oil; whereas it was not antiseptic and consisted of 95 percent of mineral oil and not more than 5 percent of olive oil. It was alleged to be misbranded in that the statements "Antiseptic U. S. P. Baby Oil" and "Nevins Antiseptic Baby Oil is a combination of pure olive oil and mineral oil," borne on the bottle label, were false and misleading in that the said statements represented that the article was antiseptic baby oil which was recognized in the United States Pharmacopoeia and that it contained an appreciable amount of pure olive oil; whereas the article was not mentioned in the said pharmacopoeia, it was not antiseptic, and it consisted of 95 percent of mineral oil and not over 5 percent of olive oil.

The product Saltabs was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since it was represented to be "Saltabs," an article owing its laxative properties to Epsom salt; whereas it did not owe its laxative properties to Epsom salt but to phenolphthalein. It was alleged to be misbranded in that the statement "Saltabs" was false and misleading in that it represented that the active ingredient of the article was a salt, namely, magnesium sulphate, or Epsom salt; whereas the active ingredient was phenolphthalein.

On March 25, 1938, the defendants entered pleas of nolo contendere, and the court imposed fines in the total amount of $500.

W. R. Gregg, *Acting Secretary of Agriculture.*

28679. Misbranding of Seeqit. U. S. v. 10 Tubes and 48 Packages of Seeqit. Default decrees of condemnation and destruction. (F. & D. Nos. 41275, 41276. Sample Nos. 57560–C, 57561–C.)

The labeling of this product bore false and fraudulent representations regarding its therapeutic and curative effects and false and misleading representations that it might be consumed without risk of ill effects.

On December 28, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10 tubes and 48 packages of Seeqit at Newark, N. J., alleging that the article had been shipped in interstate commerce on October 27 and November 2, 1937, from New York, N. Y., by Seeqit & Tiques, Inc., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of the article showed that each tablet contained approximately 4⅔ grain of aminopyrine and ⅔ grain of caffeine.

The article was alleged to be misbranded in that the following statement in the labeling of one lot and similar statements in the labeling of the other lot were false and misleading since they created the impression that the article might be consumed in accordance with the directions without risk of ill effects when it might not be so consumed but only with the risk of serious ill effects: (Envelope) "Relieves pains and discomforts of menstruation * * * At first evidence of menstrual pain or discomfort, take one tablet and repeat every three hours if necessary. Two tablets may be taken as initial dose for more than average discomfort"; (display carton) "Women—Why Suffer? A Seeqit tablet—A few minutes . . . You are perfectly fit Quickly relieves periodic pains Harmless Endorsed by many doctors"; (circular) "Needless misery The disorders attending the monthly periods have been accurately described by many medical authorities. A world-famous specialist, points out the ill effect in these words: 'During menstruation girls commonly appear pale, anxious, and a general want of tone, combined with an abnormal irritability may be noted.' The vast majority of women, especially young women, experience severe pain before, during and after menstruation. One well-known authority, describes the symptoms as follows: 'Sensations of heat, coldness of feet, retching and vomiting, cramps of the stomach and of the voluntary muscles, general disorder of nutrition, loss of appetite, constipation, dyspepsia, headache and finally hysteria.' Not all women suffer in the same degree, but practically all go through wretched days during their periods—ill at ease, depressed and nervous. Millions of Seeqit have been used by modern women. Seeqit in a few minutes relieves all these pains and discomforts, if taken in time all those unpleasantries will be avoided. Effect on charm. This suffering has a direct effect on personal charm and beauty. Pain always draws its cruel lines upon the features, causing premature wrinkles, sagging face muscles, and tell-tale signs of age. Seeqit acts without in any way interfering with the natural functions. Harmless—Not habit forming. Seeqit effects relief in a very few minutes. A Seeqit tablet, a swallow of water and all pains disappear. * * * [Testimonials] * * * 'It is a God-send to suffering women' * * * 'Seeqit has done so much for me that I can never praise them enough. At one time I suffered so that I had to go to bed for 2 days each period. Thanks to your remedy, I can now remain at the office through it all. * * * has done wonders for me.'"

The article was alleged to be misbranded further in that the statements above quoted and referred to were false and fraudulent since they created the impression that the article was a safe and appropriate remedy for the disorders mentioned; whereas it was a dangerous drug.

On February 26, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28680. Misbranding of Kampfmueller's Rheumatic Treatment. U. S. v. Harry A. Kampfmueller (Kampfmueller Remedy Co.). Plea of guilty. Costs of $10 assessed. (F. & D. No. 39814. Sample No. 31545–C.)

The labeling of this product contained false and fraudulent representations regarding its curative or therapeutic effects.

On December 15, 1937, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Harry A. Kampfmueller, trading as Kampfmueller Rheumatic Remedy Co., Louisville, Ky., alleging shipment by said defendant on or about May 8, 1936, from the State of Kentucky into the State of Indiana of a quantity of Kampfmueller's Rheumatic Treatment which was misbranded. The article was labeled in part: "Kampfmueller Rheumatic Remedy Co., Inc."

Analysis showed that the article consisted chiefly of water, ammonium iodine, sodium salicylate, plant extractives, and a small amount of alcohol.

The article was alleged to be misbranded in that certain statements in the labeling regarding its curative or therapeutic effects falsely and fraudulently represented that it was effective as a treatment for rheumatism and effective to relieve pain and stiffness of joints and muscles, due to subacute and muscular rheumatism.

On March 18, 1938, the defendant entered a plea of guilty and the court ordered that the defendants pay $10 costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28681. Misbranding of Merz-Allium. U. S. v. Merz & Co. Chemical Works, Inc., and Adolf G. Schickert. Pleas of guilty. Fines, $100. (F. & D. No. 38592. Sample No. 72431–B.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in the labeling, false and misleading representations regarding its composition, and failure to declare the alcohol present in the article.

On June 11, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Merz & Co. Chemical Works, Inc., Newark, N. J., and Adolf G. Schickert, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about April 7, 1936, from the State of New Jersey into the State of New York of a quantity of Merz-Allium that was misbranded. The article was labeled in part: "Merz & Company Chem. Fabrik Frankfurt a.M. Berlin * * * Newark, N. J."

Analysis showed that the article consisted essentially of extracts of plant drugs including garlic and an alkaloid-bearing drug plant containing hydrastine, alcohol, sugar, and water flavored with oil of cloves.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing in the labeling, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for arterial calcification, intestinal catarrh, diarrhoea, rheumatism, colics, and pinworms; effective as a relief for feeble digestion, chronic bronchitis, spasmodic and nervous coughs and hypertension; effective to prevent a great variety of diseases and the onset of many disorders, and as a preventive of arterio-sclerosis, rheumatism, sciatica, and intestinal catarrhs; effective as a household remedy, as a good prophylactic against intestinal catarrh, diarrhoea, and pinworms; to have a restorative action on the entire organism, and as essential to the diet; and effective to check the widespread arteriosclerosis (calcification of the veins), and as a treatment, remedy, and cure for calcification of the vascular walls, stenosis of the veins, and high blood pressure.

It was alleged to be misbranded further in that the statements "Allium" and "Concentrated Bulgarian Garlic Juice [in German]" in the labeling, were false and misleading in that they represented that the article was concentrated Bulgarian garlic juice; whereas it consisted essentially of plant drugs including garlic, an alkaloid-bearing drug plant containing hydrastine, alcohol. sugar, and water flavored with oil of cloves, which are not ingredients of concentrated Bulgarian garlic juice. It was alleged to be misbranded further in that it contained alcohol, and the label on the package failed to bear a statement of the quantity or proportion of alcohol contained therein.

On March 4, 1938, pleas of guilty were entered on behalf of the defendants, and the court imposed fines in the total amount of $100.

W. R. Gregg. *Acting Secretary of Agriculture.*

28682. Adulteration and misbranding of tincture of iodine. U. S. v. Rathbun Sales Corporation. Plea of guilty. Fine, $50. (F. & D. No. 40757. Sample Nos. 73881–B, 47921–C.)

This product fell below the pharmacopoeial requirements for tincture of iodine, both lots being deficient in iodine and one lot being deficient in potassium iodide.

On February 8, 1938, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Rathbun Sales Corporation, El Paso, Tex., alleging shipment by said company in violation of the Food and Drugs Act on or about April 15, 1936, and January 8, 1937, from the State of Texas into the State of New Mexico, of quantities of tincture of iodine that was adulterated and misbranded. The article was labeled in part: "Rathbun Company, El Paso, Tex."

It was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein in that both lots contained less than 6.5 grams, namely, 6.07 grams and 5.72 grams, respectively, of iodine per 100 cubic centimeters, whereas the pharmacopoeia provides that tincture of iodine shall contain in each 100 cubic centimeters not less than 6.5 grams of iodine; one lot contained less than 4.5 grams, namely, not more than 4.3 grams, of potassium iodide per 100 cubic centimeters, whereas the pharmacopoeia provides that tincture of iodine shall contain in each 100 cubic centimeters not less than 4.5 grams of potassium iodide, and the standard of strength, quality, and purity of the article was not declared on the label.

The article was alleged to be misbranded in that the statement on the label, "Tincture Iodine, U. S. P.," was false and misleading in that it represented that the article was tincture of iodine which conformed to the standard laid down in the United States Pharmacopoeia; whereas it was not.

On March 29, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $50.

W. R. Gregg, *Acting Secretary of Agriculture.*

28683. Alleged adulteration of Epsom salt compound tablets. U. S. v. Strong, Cobb & Co., Inc. Demurrer to the information overruled. Tried to the court. Judgment of not guilty. (F. & D. No. 36988. Sample Nos. 7309-B, 7310-B.)

On April 7, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Strong, Cobb & Co., Inc., Cleveland, Ohio, alleging that on or about March 1, 1934, the defendant sold and caused to be delivered to Liebenthal Bros. Co. at Cleveland, Ohio, quantities of a drug labeled "Epsom Salt Compound Tablets"; that at the time of said sale and delivery the defendant guaranteed to the purchaser that the article was not adulterated or misbranded in violation of the Federal Food and Drugs Act; that on July 5, 1934, the said drug, in the identical condition as when received was shipped by the Liebenthal Bros Co. from the State of Ohio into the State of Pennsylvania; and that it was adulterated in violation of said act.

The information alleged that the article was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that it was represented to be a compound of Epsom salt in the form of tablets; whereas it was composed of phenolphthalein and aloin and an inappreciable amount of magnesium sulphate (Epsom salt).

On May 8, 1936, the defendant filed a demurrer and motion to quash. On June 19, 1936, the said demurrer and motion to quash were argued and overruled with the following opinion:

West, *District Judge:* "Overruled, with exception to defendant. The drug sold as 'Epsom Salt Compound Tablets' necessarily has the professed quality of Epsom salts. The fact that it is a compound should not be allowed to affect its quality when the other ingredients are not named. If, as the indictment alleges, the tablets contained two other drugs and an inappreciable amount of magnesium sulphate or Epsom salts, then their purity falls below the professed quality under which they were sold. It is not a question of strength, as in 55 F. (2d) 264, cited by defendant, but of purity; and whatever the effect of the other drugs may be, the tablets are adulterated and impure because their quality and effect do not mainly depend upon Epsom salts."

On February 11 and 14, 1938, the case was tried to the court. At the conclusion of the Government's case a motion was made by counsel for the defendant for a judgment of not guilty and the court sustained the motion with the following opinion delivered orally:

Jones, *District Judge:* "I am going to sustain the motion on two grounds: First, that there was no evidence that the defendant shipped in interstate commerce the drug in question; and, second, I do not find in the evidence any support for adulteration. There is a possible ground for charging misbranding, but that is not contained in the information. The motion of the defendant will be sustained, and the Government may have exceptions."

W. R. Gregg, *Acting Secretary of Agriculture.*

28684. Adulteration of maleic acid tablets. U. S. v. 7 Drums of Tablets. Default decree of condemnation and destruction. (F. & D. No. 40990. Sample No. 9641-C.)

This product contained a smaller amount of maleic acid per tablet than it was represented to contain.

On December 1, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven drums containing 318,400 maleic acid tablets at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about August 18 and September 3, 1937, by Shores Co. from Cedar Rapids, Iowa, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, since each tablet was

represented to contain 2 grains of maleic acid; whereas each tablet contained less than 2 grains, namely, not more than 1.39 grains, of maleic acid.

On March 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28685. Adulteration and misbranding of gauze bandage. U. S. v. 48 Dozen Packages of Gauze Bandage. Tried to the court and a jury. Jury excused before verdict. Judgment of condemnation and destruction. Affirmed by circuit court of appeals. (F. & D. No. 37890. Sample No. 72823–B.)

This article was not sterile, as represented on the label.

On July 14, 1936, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 dozen packages of gauze bandage at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about May 15, 1936, from Bridgeport, Conn., by the Bay Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard and quality under which it was sold, namely, on the carton "Sterilized," and in that it was not sterilized but did contain anaerobic bacteria and gram-positive and gram-negative bacilli capable of growing under aerobic conditions.

It was alleged to be misbranded in that the statement appearing on the package, "Sterilized," was false and misleading in that the article was not sterilized.

The Bay Co., of Bridgeport, Conn., having filed an answer, the case was tried before the court and a jury, on April 13, 14, and 15, 1937. A motion for a directed verdict was then made by each of the parties. Whereupon, a jury verdict was waived, the jury was discharged and decision of the issues was reserved by the court. On May 27, 1937, the court rendered the following opinion:

INCH, *District Judge:* "The United States duly commenced the above entitled action whereby the condemnation is sought of a quantity of gauze bandages manufactured by the Bay Company of Bridgeport, Connecticut, and shipped by it from that state, in interstate commerce, to New York City, where they were seized in the possession of Parke, Davis & Company, New York City, State of New York.

"The action is brought pursuant to the provisions of the Federal Food and Drugs Act of June 30, 1906 (34 Stat. L. 768, as amended, 37 Stat. L. 316, 732). There is no question as to jurisdiction. Many of the essential facts are admitted.

"The Bay Company duly filed a claim to the merchandise and likewise filed an answer to the libel, in this it denies that 'bandages' are within the definition of a 'Drug,' as defined in the statute in question. It also denies that the bandages are 'adulterated' or 'misbranded.'

"The above issues duly came on for trial before a jury and both sides later moved for a directed verdict. The court thereupon reserved decision, the jury was excused, and the duty now rests upon the court to make proper findings and decision in the place of a verdict.

"While, unless duly agreed to, any statement by the court in this decision as to facts for the purpose of presentation of its decision is not to be considered as taking the place of findings, nevertheless, it is necessary that the court state at the outset what it believes these facts to be.

"These facts briefly are that on or about May 15, 1936, the Bay Company manufactured and shipped to Parke, Davis & Company approximately 48 dozen packages of gauze bandages. These bandages were contained in cartons, each of which contained a dozen bandages, these individual bandages, in turn, being enclosed in separate cartons.

"The label on the large carton containing the dozen packages is as follows:

One Dozen

4 Inches — 10 Yards

Bay's
Gauze Bandages

Absorbent — Sterilized

The Bay Company
Bridgeport, Connecticut
A Division of
Parke, Davis & Co.

"The label on the individual carton containing the single bandage, plainly for the information and guidance of the customer, is as follows:

Bay's Gauze Bandage	Guarantee This Bay Product Has Been Scientifically Prepared For Surgical Use Under Most Sanitary Manufacturing Conditions.
(Bay Bandage) Absorbent Sterilized Non-Ravel	The Quality Must Be Satisfactory To You, Or Your Dealer Will Make Full Price Refund.

"It will be seen therefore that the Bay Company, in this manner, claimed that the gauze bandage not only had been 'sterilized' but was for 'surgical use.'

"On June 17, 1936, the Government duly obtained proper samples of this merchandise and had same examined by bacteriologists of the Food and Drug Administration. This examination revealed evidence in the bandage of living bacterial growth of the three subdivisions of bacteria, classified by witnesses as gram-positive and gram-negative bacteria of aerobic and anaerobic character.

"Thereupon, and on or about July 14, 1936, the Government commenced this action seeking the condemnation of these bandages, under the provisions of Section 10, of the said Act, claiming that the bandages were not 'sterilized' and were therefore 'misbranded' and 'adulterated.'

"Subsequently, on October 14, 1936, a further sample was taken pursuant to an order of the court with the same result as in the first examination.

"The Government has proved that these bandages so seized were not 'sterilized.' That the statement on the cartons that they were so 'sterilized' is false. The accepted definition of 'sterilization' means that all bacteria are absent in a sterilized bandage. That it is free from all living micro-organisms.

"It may well be that the well known and long established concern into whose possession these bandages came, and where they were seized, is as much concerned with the proper enforcement of law in regard to pure drugs, etc., as anyone else, but this controversy is not over a claim that an 'unsterilized' bandage is as safe as a 'sterilized' bandage, but whether the law in question applies to any bandage. It is beside the point that some individual, misled by a false advertisement may have a right to redress a wrong occasioned by such false statement on which reliance was properly had.

"In the light of modern knowledge it no longer needs any argument to say that the difference between a 'sterilized' bandage and an 'unsterilized' bandage is extremely important in its use by surgeons and physicians. No doctor nowadays would think of knowingly applying an 'unsterilized' bandage to an open wound. The general education of the public is such that it can be safely said that the average layman would not do so either. The necessity for protection of the public arises from such fact with its far reaching consequences.

"Sufficient therefore has been said to indicate the importance of the subject we are considering, and the necessity for protecting legislation in regard to the general welfare of the citizens of this country.

"This brings us to the real issue whether or not the Congress has in fact legislated on this subject of bandages with sufficient clearness so that the court can hold that the law in question plainly forbids manufacturing and selling these 'unsterilized' bandages as 'sterilized' bandages and as fit 'for surgical use.'

"The claimant, while disputing the importance of the subject, nevertheless claims that the Congress has not yet so legislated.

"If claimant is right, the court cannot usurp the legislative function however great the temptation. Its function is to interpret the law not to make it. Thereafter the proper legislative body may amend or substitute or modify to meet the defect found by such interpretation.

"We will now consider this statute. It is the so-called Federal Food and Drugs Act, of June 30, 1906, as amended, etc. (Title 21, U. S. C.) of which so far as applicable, Section 1 is as follows:

"'Adulterated or misbranded foods or drugs; manufacture in Territories or District of Columbia unlawful; penalty. It shall be unlawful for any person to manufacture within any Territory or the District of Columbia any article of food or drug which is adulterated or misbranded, within the meaning of sections 1 to 15, inclusive, of this title; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.'

"Section 7 so far as applicable is as follows:

"'7. Same; "drug and food." The term "drug," as used in sections 1 to 15, inclusive, of this title, shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. The term "food," as used in said sections, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compound. (June 30, 1906, c. 3915, 6, 34 Stat. 769).'

"Sections 9 and 10 so far as applicable are as follows:

"'9. Misbranded; meaning and application. The term "misbranded," as used in sections 1 to 15, inclusive, of this title, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced. (June 30, 1906, c. 3975, 8, 34 Stat. 771; Aug. 23, 1912, c. 352, 37 Stat. 416; Mar. 3, 1913, c. 117, 37 Stat. 732).

"'10. Misbranded articles. For the purpose of sections 1 to 15, inclusive, of this title, an article shall be deemed to be misbranded; Drugs. In case of drugs: Imitation or use of name of other article.—First. If it be an imitation of or offered for sale under the name of another article. Removal and substitution of contents of package, or failure to state on label quantity or proportion of narcotics therein. * * * Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false and fraudulent.'

"'14. Seizure of articles upon discovery for condemnation; disposition; delivery to owner on bond; proceedings. Any * * * drug * * * that is adulterated or misbranded within the meaning of sections 1 to 15, inclusive, of this title, and is being transported from one State, Territory, District, or insular possession to another for sale, * * * shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation.'

"Claimant argues that a gauze bandage is not 'any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals.' It is its contention that as these above-quoted words follow the words 'all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary,' they are thereby limited. That they are meaningless standing alone for otherwise 'they are broad enough to include everything from plaster casts, spectacles, to braces and crutches.' Therefore, says claimant, by the doctrine of ejusdem generis' the first mentioned general words will be held to include only such things as are of the same kind as those enumerated in the last mentioned group. The Government claims that this is improperly limiting such an important statute, that, even so, absorbent cotton, adhesive plaster, are among preparations recognized in the United States Pharmacopoeia.

"The Congress, in the Act now before us, does confine the words 'any substance or mixture of substances, etc.,' to substances 'used for the cure, mitigation or prevention of disease.' Such only are to be considered under its definition of the word 'Drug.'

"Surely the bandages here seized were 'substances.' As to whether the bandages here seized were to be used 'for the cure, mitigation, or prevention of disease' we have substantial and uncontradicted evidence in the record from recognized medical authorities, to the effect that they are so used when 'sterilized.'

"Doctor Klumpp used gauze bandages to hold dressings on a wound also as a packing within the wound. 'In certain diseases there are wounds which are part of the disease. They must be treated with gauze in order to cure the disease.'

"Doctor Paulonis: 'Gauze bandages are frequently used in the cure of disease.'

"Doctor Lippold 'used bandages as drains in infected wounds.'

"Doctor Leonard testified he has used gauze bandages on numerous occasions in the cure of the disease as in the case of burns and drains, and to prevent hemorrhage.

"The testimony sufficiently indicates that no surgeon or physician would think of using an 'unsterilized bandage' in such cases.

"As I have said, all this testimony by the surgeons, nurses, and physicians relates to a 'sterilized' bandage, but the bandages here in question were claimed to be such and to be prepared for surgical use.

"It may be possible to argue that the present law does not cover 'any bandage' and that the Congress is now considering a definition of 'Drug' that will cover same, but we are not concerned here with 'any bandage.' We are concerned with a bandage that purports to be 'sterilized' and 'prepared for surgical use.' The claimant cannot escape from its own words and this deliberate choice and offer to the public.

"The primary purpose of the statute is to prevent injury to the public health. *U. S.* vs. *Lexington* 232 U. S. 399, *Savage* vs. *Jones* 225 U. S. 501. *McDermott* vs. *Wisconsin* 228 U. S. 115. *U. S.* vs. *Coca-Cola* 241 U. S. 265.

"It is the duty of the court to give a sensible construction to this statute in order, if possible, to accomplish the legislative intent. *Hawaii* vs. *Mankichi* 190 U. S. 197.

"A 'sterilized' bandage is a well recognized substance used by surgeons and physicians in cases of, the cure of, the prevention of, disease as testified to by experts in this record. The Congress surely intended to exclude from interstate commerce an impure and misbranded bandage pretending to be 'sterilized' and 'prepared for surgical use,' and prevent it from being transported from the manufacturer to people who might reasonably use them. It seems to me that any other interpretation is impossible in the light of the express purpose of the Congress. *Hipolite*, etc., vs. *U. S.* 220 U. S. 45.

"If the brand or label deceives, it is sufficient basis for holding that it is a misbrand. *U. S.* vs. *95 Barrels* 265 U. S. 438. The statute defines what is 'adulterated.'

"It is sufficiently plain that the bandages thus offered to the public were claimed to have been 'sterilized' and 'scientifically prepared for surgical use.' The choice of such words cannot be considered inadvertent. On the contrary, claimant has specifically intended the bandages to be for surgical use which certainly means that they are substances or materials intended to be used by a surgeon in connection with his surgery to protect a patient from the evident danger of infection arising from the use of an 'unsterilized' bandage.

"If this is so then the present statute sufficiently covers such danger to public health and the Government was right in seizing these bandages so claimed to have been 'sterilized' and 'prepared for surgical use,' on the ground that the label is false, misleading, and that the bandage is misbranded. The bandages likewise fall below the professed standard of quality under which they were sold and therefore are adulterated.

"Accordingly, the Government is entitled to judgment with costs. Submit findings."

On July 1, 1937, judgment of condemnation was entered and the court ordered the issuance of a writ of destruction.

On July 12, 1937, notice of appeal and assignments of error having been filed by the claimant, petition for appeal from that judgment to the Circuit Court of Appeals for the Second Circuit was granted. On February 7, 1938, the Circuit Court of Appeals handed down the following decision affirming the judgment of the district court:

CHASE, *Circuit Judge:* "The United States seized, and then filed its libel in the District Court for the Eastern District of New York to have condemned and declared forfeited, 48 packages of plain gauze bandages under the provisions of the Pure Food and Drugs Act (37 Stat. Secs. 416, 732; 21 U. S. C. A.). The appellant appeared as claimant and answered. On issue joined, the cause came on for trial by jury but both parties moved for a directed verdict and then waived the jury. The court then made findings of fact and entered the judgment from which the claimant has appealed.

"The findings of fact show that on or about May 19, 1936, the claimant shipped the packages of gauze bandages which were later seized and condemned from Bridgeport, Conn., to Parke, Davis & Co., in New York City. Except for samples which have been removed, all the gauze is now in the custody of the United

States marshal for the Southern District of New York. The claimant is the owner.

"The gauze was in small packages contained in larger cartons which were labeled, as were the small packages, to the effect that the gauze was sterilized. Each small package also bore a guaranty stating in part that 'This Bay product has been scientifically prepared for surgical use under the most sanitary manufacturing conditions.'

"The gauze was not, however, sterilized or fit for surgical use but did contain 'living bacteria consisting of gram-positive sporeforming bacilli and nonsporeforming bacilli, gram-positive and gram-negative bacilli, capable of growing aerobic conditions and anaerobic bacteria.' And it was a substance intended for use in the cure, prevention, and mitigation of disease in man.

"The turning point of decision on this appeal is whether such a substance as this gauze bandaging is within the scope of the Pure Food and Drugs Act and so subject to seizure and forfeiture. If it is within the Act at all, it must fall within its purview as a 'substance * * * intended to be used for the cure, mitigation, or prevention of disease of either man or other animals' defined to be a 'drug' in 21 U. S. C. A. Sec. 7. That it was, indeed, a substance is self evident and the above finding as to its intended use certainly brings it within the broad language of the statutory definition of a 'drug.' But it is argued that such broad definition must be held to be somewhat narrowed, under the principle of ejusdem generis, by words used in the statute in connection with it and with that contention we are fully in accord. The complete statutory definition of drug is as follows:

"The term 'drug' as used in sections 1 to 15, inclusive, of this title, shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or other animals. (21 U. S. C. A. Sec. 7.)

"But the application of the principle for which the claimant contends does not help its cause in this particular instance. Among those things recognized in the United States Pharmacopoeia as 'preparations' are absorbent cotton and adhesive plaster made by spreading the adhesive on cotton cloth. But we need not place any emphasis upon adhesive plaster, however, for the recognition in the pharmacopoeia of absorbent cotton, a substance generally similar in composition and use to a gauze bandage, sufficiently shows that the latter, while not itself recognized, is of a kind with what is. That makes it exactly the sort of thing Congress must have intended to include in the general language which was, of course, put there for the very purpose of making the statute cover more substances of the kind mentioned than were actually recognized in the Pharmacopoeia or National Formulary.

"The Act was passed to prevent injury to the public health. *United States* v. *Lexington Mill and Elevator Co.*, 232 U. S. 399. It should be given a fair and reasonable construction to attain its aim. These bandages, clearly intended for surgical use, are certainly a menace to the public health when misbranded to show that they were sterilized. They were not fit for the use for which their labels falsely represented them to have been prepared and so were subject to condemnation and forfeiture. *United States* v. *95 Barrels of Vinegar*, 265 U. S. 438.

"Judgment affirmed."

W. R. Gregg, *Acting Secretary of Agriculture.*

28686. Misbranding of Kalo's Veterinary Salve and Kalo's Headache Powders. U. S. v. Mentho Jell Co., Inc. Plea of guilty. Fine, $25. (F. & D. No. 39501. Sample Nos. 5077–C, 19579–C.)

The labeling of both these products bore false and fraudulent therapeutic and curative claims, and that of the headache powders contained an incorrect declaration of the amount of acetanilid contained in them.

On January 18, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mentho Jell Co., Inc., Albert Lea, Minn., alleging shipment by the said corporation in violation of the Food and Drugs Act as amended, on or about May 27 and August 24, 1936, from the State of Minnesota into the State of Iowa of quantities of Kalo's Veterinary Salve and Kalo's Headache Powders which were misbranded. The articles were labeled in part: "Mentho Jell Co., Albert Lea, Minnesota."

Analyses showed that the veterinary salve consisted of a dark yellow aromatic

ointment, containing essentially turpentine, camphor, and tarry material; and that the headache powders were white powders containing chiefly acetanilid, caffeine, tartaric acid, and sugar.

The articles were alleged to be misbranded in that statements regarding their therapeutic and curative effects, appearing on the labels, falsely and fraudulently represented that the Veterinary Salve was effective in the treatment of cowpox, caked bags, and all infectious eruptions, and effective to heal and to leave the surface soft and smooth; and that the headache powders were effective in the treatment of all kinds of headache and neuralgia, sick headaches, la grippe, fever, rheumatic pains, gout, and chest pains. The headache powders were alleged to be misbranded further in that the statement on the label, "Kalo's Headache Powders Contain Acetanilide three and one-half grains to each powder," was false and misleading since it represented that each of said powders contained 3½ grains of acetanilid, whereas a portion contained more than 3½ grains and the remainder contained less than 3½ grains; and in that they contained acetanilid and the label on the package failed to bear a statement of the quantity or proportion of acetanilid contained therein.

On February 28, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

W. R. Gregg, *Acting Secretary of Agriculture.*

28687. Adulteration and misbranding of solution of citrate of magnesia. U. S. v. Robert Sugerman (Dytex Chemical Co.). Plea of guilty. Fine, $50. (F. & D. No. 39795. Sample No. 20855–C.)

This product differed from the standard laid down in the United States Pharmacopoeia since it contained magnesium sulphate, a substance not prescribed by the pharmacopoeia, and it contained less magnesium sulphate than prescribed by that authority.

On October 20, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Robert Sugerman, trading as the Dytex Chemical Co., at Providence, R. I., alleging shipment by said defendant in violation of the Food and Drugs Act on or about March 12, 1937, from the State of Rhode Island into the State of Massachusetts of a quantity of solution of citrate of magnesia which was adulterated and misbranded. The article was labeled in part: "Effervescent Solution of Citrate of Magnesia, Not U. S. P. * * * Prepared by Dytex Chemical Co."

It was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in the pharmacopoeia since it contained magnesium sulphate, a substance not prescribed by the pharmacopoeia, and less magnesium citrate than prescribed therein; and its own standard of strength, quality, and purity was not declared on the container.

It was alleged to be misbranded in that the statements, "Citrate Magnesia," blown on the bottles, and "Solution of Citrate of Magnesia," borne on the label, were false and misleading since they represented that it was citrate of magnesia and that it was solution of citrate of magnesia; whereas it was a product which contained magnesium sulphate, a substance not prescribed by the pharmacopoeia, and less magnesium citrate than prescribed therein. The article was alleged to be misbranded further in that it was a product which contained magnesium sulphate, and less magnesium citrate than prescribed by the United States Pharmacopoeia, and was offered for sale and sold under the name of another article, citrate of magnesia.

On February 14, 1938, a plea of guilty was entered by the defendant and he was sentenced to pay a fine of $50.

W. R. Gregg, *Acting Secretary of Agriculture.*

28688. Adulteration and misbranding of Malto-De. U. S. v. Adah Alberty (Alberty Food Products). Plea of nolo contendere. Fine, $150. (F. & D. No. 39838. Sample No. 36388–C.)

This product was adulterated and misbranded because it contained materially less calcium, phosphorus, and vitamin D than declared; and was misbranded further because of false and fraudulent curative and therapeutic claims in the labeling.

On December 27, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Adah Alberty, trading as Alberty Food

Products, Hollywood, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about April 2, 1937, from the State of California into the State of Washington, of a quantity of Malto-De which was adulterated and misbranded. The product was labeled in part: "Malto-De * * * The Alberty Laboratories * * * Hollywood, California."

Analysis showed that the product consisted essentially of sugars (including lactose, dextrose, and sucrose), cocoa, a powder resembling malted milk, and minute portions of calcium and phosphorus compounds. Vitamin assay of a sample showed that it contained less than three-fourths of a U. S. P. unit of vitamin D per gram.

The article was alleged to be misbranded in that certain statements, designs, and devices regarding its curative and therapeutic efficacy, borne in a booklet wrapped around the can containing it, falsely and fraudulently represented that it was effective to correct a deficiency in calcium, phosphorus, and vitamin D; to obtain complete growth, strong, well-formed bones, sound, hard teeth; to maintain the perfect skeletal structure of the human body, and to obtain and preserve the normal, balanced relationship of phosphorus and calcium in such body; to prevent brittleness in the bones of aged persons; to promote an optimum state of health and vigor, to increase resistance to bacteria and to postpone senility and death; to protect living teeth against decay; to "regulate phosphorus metabolism and calcium;" to eliminate and prevent rickets; to develop normally the bones and teeth and to promote general good health; to avert poor bone development, muscular weakness, decayed, crowded, and uneven teeth and difficulty in childbirth; to revitalize cell life, to increase strength and pulsation of the heart; to correct defects in blood coagulation; to reinforce body resistance in fever and disease; to reduce nervousness; to tone the nerves, to prevent oxalic acid poisoning, to promote concentration of thought, to give will power, to eliminate magnesium deposits and tooth decay, to combat actively the toxic effect of colon types such as bacillus enteritidis, to change the intestinal flora, to change the intestinal bacteria from acid to alkaline, to eliminate scurvy; to cure "celiac (carbohydrate disturbance) and Sprue diseases," and to definitely control calcium and phosphorus utilization.

The article was alleged to be misbranded further in that the following statements on the label of the can containing it, "Malto-De. Containing Calcium Phosphorus. D. Exceptionally Rich in Sunshine Vitamin 'D.' Malto-De. Contains 12½ percent Soluble Calcium and Phosphorus to each pound mix and Sunshine Vitamin 'D.' Eight heaping teaspoonsful approximately equal the calcium, phosphorus content in a quart of milk. Two rounding teaspoonsful of Malto-De when added to an eight ounce glass of milk is equal to: The Calcium value of 4¼ glasses of milk. The phosphorus value of 2¾ glasses of milk. The Vitamin 'D' value of 6 to 29 glasses of milk. One glass of average milk to which has been added one ounce portion (2 tps.) Malto-De will be increased in potency as follows; Calcium value 370%. Phosphorus value 225%. Vitamin 'D' value 600% to 4650%," were false and misleading since the article was a mixture consisting essentially of sugars (including lactose, dextrose, and sucrose), which constituted approximately 90 percent of the article, cocoa, a powder resembling malted milk, calcium and phosphorus compounds not exceeding 1 percent, and less than three-fourths of a unit of vitamin D of United States Pharmacopoeia standard per gram.

The article was alleged to be adulterated in that it was sold under the following professions regarding its standard of strength, quality, and purity, (can) "Contains 12½ per cent Soluble Calcium and Phosphorous to each pound mix. Eight heaping teaspoonsful approximately equal the calcium, phosphorous content in a quart of milk. Two rounding teaspoonsful of Malto-De when added to an eight ounce glass of milk is equal to the calcium value of 4¼ glasses of milk. The phosphorous value of 2¾ glasses of milk. The vitamin 'D' value of 6 to 29 glasses of milk. One glass of average milk to which has been added one ounce portion (2 tsp.) Malto-De will be increased in potency as follows: Calcium value 370%. Phosphorous value 225%. Vitamin 'D' value 600% to 4650%," and (booklet) "One glass of average milk to which has been added one ounce portion (2 teaspoonsful) of Malto-De is equal to the calcium value of 4¼ glasses of milk. The phosphorus value of 2¾ glasses of milk. The vitamin 'D' value of 6 to 29 glasses of milk. One glass of average milk to which has been added one ounce portion (2 teaspoonsful) of Malto-De will be increased in potency as follows: Calcium value 370%. Phosphorus value 225%. Vitamin 'D' value 600% to 4650%. Calcium Phosphorus—8 heaping teaspoonsful of Malto-De

approximately equal the calcium, phosphorus content in a quart of milk. This drink contains 12½ per cent soluble calcium and phosphorus to each pound mix"; and its own strength and purity fell below the aforesaid professed standard and quality.

On December 27, 1937, the defendant entered a plea of nolo contendere and the court imposed a fine of $150.

W. R. Gregg, *Acting Secretary of Agriculture.*

28689. Misbranding of Mentho-Kerchief. U. S. v. 539 Packages of Mentho-Kerchief. Default decree of condemnation and destruction. (F. & D. No. 39131. Sample No. 12940–C.)

The labeling on this product bore false and fraudulent representations regarding its curative and therapeutic effectiveness.

On February 25, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 539 packages of Mentho-Kerchief at Washington, D. C., alleging that the article had been shipped in interstate commerce, on or about January 25, 1937, from Shamokin, Pa., by the Rieser Co., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of tissue paper impregnated with menthol.

The article was alleged to be misbranded in that the following statements appearing on the packages, regarding its curative or therapeutic effects, were false and fraudulent: "Use for * * * Sinus and Hay Fever * * * Sinus—Hay Fever * * * Nothing like Mentho-kerchief to soothe all types of * * * Sinus Trouble and Hay Fever, etc."

On February 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28690. Misbranding of Kotofom. U. S. v. Kotofom Corporation of America. Plea of guilty. Fine, $5 and costs. (F. & D. No. 39823. Sample No. 33334–C.)

The labeling of this product bore false and fraudulent therapeutic and curative claims.

On January 19, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Kotofom Corporation of America, South Bend, Ind., alleging shipment by said corporation in violation of the Food and Drugs Act as amended, on or about October 26, 1936, from the State of Indiana into the State of Wisconsin of a quantity of Kotofom which was misbranded. The article was labeled in part: "Kotofom Corporation of America, South Bend, Indiana."

Analysis showed that it consisted chiefly of water, soap, and a small amount of glycerin with minute amounts of fluorescein and a perfume.

The article was alleged to be misbranded in that statements, designs, and devices appearing in a booklet affixed to each can falsely and fraudulently represented its therapeutic and curative effectiveness as a healing agent and as a cure for severe cases of dandruff.

The information also alleged that it was misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1606 published under that act.

On February 7, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $5 and costs for violation of both acts.

W. R. Gregg, *Acting Secretary of Agriculture.*

28691. Misbranding of Salacetin Bell. U. S. v. 66 Bottles of Salacetin Bell. Default decree of condemnation and destruction. (F. & D. No. 41209. Sample Nos. 55333–C, 55346–C.)

The labeling of this product bore false and fraudulent representations regarding its curative or therapeutic effects.

On December 23, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 66 bottles of Salacetin Bell at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about October 6 and November 5 and 29, 1937, by Hollings-Smith

Co., from Orangeburg, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of acetanilid (2.7 grains per tablet), salicylates, sodium bicarbonate, and starch.

It was alleged to be misbranded in that the following statements in the labeling regarding its curative or therapeutic effects, were false and fraudulent: (Carton) "Salacetin Bell is used with good results in febrile, painful and uric acid conditions generally; acute and chronic rheumatic and neuralgic conditions; fermentative conditions of the digestive tract; inflammatory conditions of the respiratory tract; * * * etc."; (circular) "* * * gives * * * more lasting relief especially in rheumatic, neuralgic and arthritic conditions, dysmenorrhea."

On March 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28692. Misbranding of laxative cold and grippe tablets. U. S. v. 69 Packages of Laxative Cold and Grippe Tablets. Default decree of condemnation and destruction. (F. & D. No. 41437. Sample No. 71763–C.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On January 17, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 69 packages of laxative cold and grippe tablets at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about October 25, 1937, by the Ormont Drug & Chemical Co., Inc., from Long Island City, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of acetanilid (1 grain per tablet), quinine, monobromated camphor, a laxative plant drug, and chocolate coating.

It was alleged to be misbranded in that the following statements on the label, regarding its curative or therapeutic effects, were false and fraudulent: "Grippe * * * A Quick Relief for * * * La Grippe, * * * and Feverish conditions."

On March 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28693. Misbranding of Tricasco. U. S. v. 30 Bottles of Tricasco. Default decree of condemnation and destruction. (F. & D. No. 41520. Sample No. 49918–C.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in the labeling. It was misbranded further because it was represented to consist of roots, barks, and leaves; whereas it consisted in part of other substances.

On January 25, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 bottles of Tricasco at Pontiac, Mich., alleging that the article had been shipped in interstate commerce on or about November 4, 1937, by Tricasco Laboratories from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted of a dark brown liquid containing chiefly sugar, water, licorice, an emodin-bearing drug, and small amounts of sodium iodide.

It was alleged to be misbranded in that the statement on the carton, "Prepared from the extracts obtained of roots, barks, and leaves," was false and misleading in view of its composition since it contained sodium iodide. It was alleged to be misbranded further in that the following statements on the carton, regarding its curative or therapeutic effects, were false and fraudulent: "This prescription is recognized and recommended for its High Medicinal Value by Leading Physicians for the treatment of a Run-down Condition and Various other Ailments Detrimental to Health. A System Cleanser and Tonic for Every Member of the Family. * * * for the elimination of impurities and acids in your body which cause so many diseases. * * * Take Tricasco Prescription to bring back resistance to disease which every normal body inherently possesses. * * * Nature's laws are perfect if only we obey them, but disease follows disobedience.

Go straight to nature for the cure, to the forest, the field and the meadow. Curative mysteries are hidden there, many of which are contained in this prescription."

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28694. Misbranding of French Pessaire Womb Supporter. U. S. v. 67 Packages of French Pessaire Womb Supporter (and 2 similar seizure actions). Default decree of condemnation and destruction. (F. & D. Nos. 41773, 41830, 41831. Sample Nos. 2562–D, 2563–D, 3025–D, 8366–D.)

The labeling of this product bore false and fraudulent curative or therapeutic claims and other misrepresentations.

On February 21, March 2, and March 3, 1938, the United States attorneys for the Northern District of California, the Northern District of Illinois, and the Western District of Missouri, acting upon reports by the Secretary of Agriculture, filed in their respective district courts 3 libels praying seizure and condemnation of 246 packages of French Pessaire Womb Supporters in various lots at San Francisco, Calif.; Chicago, Ill.; and Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about April 29, 1937, and January 4 and 24, and February 4, 1938, by Robert J. Pierce, Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements in the labeling were false and misleading since the article was not what it was represented to be: (Carton) "Womb Supporter * * *"; (circular) "Womb Supporter * * * The French Womb Supporter is constructed on a common sense principle, and strictly in accordance with the anatomy of the female organization * * * is not injurious in any way, * * * no apprehension of its going too far or doing the slightest harm need be felt."

It was alleged to be misbranded further in that the following statements in the circular regarding its curative or therapeutic effects were false and fraudulent: "A Blessing To Womankind * * * It affords a convenient and prompt means of cure to those afflicted with prolapsus (falling of the womb), leuchorrhoea (whites), and in the ready cure of the ulceration of the mouth and neck of the womb, so commonly the living torment of delicate women. In treatment of cancer of the womb, it is a most admirable instrument. The ordinary treatment of female diseases by injections is uncertain, slow, tedious, disgusting and expensive. In the use of local medication, by the means of the Womb Supporter, the cure is directly applied to the seat of the disease, and can be retained any length of time with ease, comfort and success. By this valuable means, old chronic female affections, seldom curable by former modes of treatment, now yield readily."

On March 17, April 21, and May 24, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28695. Misbranding of hydrogen peroxide. U. S. v. 132, 51, and 122 Bottles of Hydrogen Peroxide. Default decree of condemnation and destruction. (F. & D. No. 41464. Sample Nos. 55257–C, 55298–C.)

This product was misbranded because it contained acetanilid in excess of the amount declared; its label falsely indicated that it conformed to the tests laid down in the United States Pharmacopoeia for hydrogen peroxide, and it was short of the declared volume.

On January 18, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 305 bottles of hydrogen peroxide at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about September 15, 1937, from Boston, Mass., by General Oil & Drug Co., Inc., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement on the label, "U. S. P. * * * Hydrogen Peroxide * * * with 3/16 grain acetanilide to fluid ounce," was false and misleading when applied to an article that contained more than 3/16 grain of acetanilid per each fluid ounce; in that the statement on the label, "* * * U. S. P. * * * Hydrogen Peroxide," was false and misleading in that the article was not solution of hydrogen perox-

ide, U. S. P., since it differed from the standard of strength as determined by the test laid down in the United States Pharmacopoeia and its label led one to believe that it was of such standard; and in that the statements on the packages of various sizes, "Contents 4 [or "8" or "16"] fl. oz.," were false and misleading when applied to an article that was short volume.

On February 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28696. Adulteration and misbranding of solution citrate of magnesia. U. S. v. Mrs. Elizabeth Margaret Jennings (Border Serum & Drug Co.). Plea of guilty. Fine, $25. (F. & D. No. 40750. Sample Nos. 67896–B, 47927–C.)

Both lots of this product contained a smaller proportion of magnesium citrate than that prescribed in the United States Pharmacopoeia. One lot also contained a smaller proportion of citric acid than that prescribed therein; and it contained magnesium sulphate, which is not mentioned in the pharmacopoeia as an ingredient of solution of citrate of magnesia.

On February 8, 1938, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mrs. Elizabeth Margaret Jennings, trading as Border Serum & Drug Co., El Paso, Tex., alleging shipment in violation of the Food and Drugs Act by said defendant on or about March 30, 1936, and June 10, 1937, from the State of Texas into the State of New Mexico, of quantities of solution citrate of magnesia which was adulterated and a portion of which was misbranded. One lot was labeled in part: "Citrate of Magnesia * * * Border Serum and Drug Co., El Paso, Tex." The other lot was labeled: (Blown in bottle) "Solution Citrate Magnesia."

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein since one lot contained in each 100 cubic centimeters an amount of magnesium citrate corresponding to less than 1.6 grams, namely, not more than 1.273 grams of magnesium oxide; it contained in each 10 cubic centimeters citric acid equivalent to less than 26 cubic centimeters, namely, not more than 19.93 cubic centimeters, of half-normal hydrochloric acid; and it also contained magnesium sulphate, and the other lot contained in each 100 cubic centimeters an amount of magnesium citrate corresponding to less than 1.6 grams, namely, not more than 1.376 grams of magnesium oxide; whereas the United States Pharmacopoeia provides that solution of magnesium citrate shall contain in each 100 cubic centimeters an amount of magnesium citrate corresponding to not less than 1.6 grams of magnesium oxide, and in each 10 cubic centimeters it shall contain citric acid equivalent to not less than 26 cubic centimeters of half-normal hydrochloric acid, and it does not mention magnesium sulphate as an ingredient of the article; and the standard of strength, quality, and purity of the article was not declared on the label.

One lot of the article was alleged to be misbranded in that the statement "Citrate of Magnesia," borne on the bottle label, was false and misleading since it represented that the article consisted wholly of citrate of magnesia, whereas it consisted in part of magnesium sulphate.

On February 17, 1938, the defendant entered a plea of guilty and was sentenced to pay a fine of $25.

W. R. Gregg, *Acting Secretary of Agriculture.*

28697. Misbranding of Kalo's Mentho Jell and Kalo's Headache Powders. U. S. v. Mentho Jell Co., Inc. Plea of guilty. Fine, $25. (F. & D. No. 39832. Sample Nos. 19950–C, 19994–C, 19995–C.)

The labeling of these products bore false and fraudulent therapeutic and curative claims, and the quantity of acetanilid in the headache powders was incorrectly declared.

On January 18, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mentho Jell Co., Inc., Albert Lea, Minn., alleging shipment by said corporation in violation of the Food and Drugs Act as amended, on or about May 8 and June 14, 1937, from the State of Minnesota into the States of Wisconsin and Iowa of quantities of Kalo's Mentho Jell and Kalo's Headache Powders which were misbranded. The articles were labeled in part: "Mentho Jell Co. Albert Lea, Minn."

Analysis of the Mentho Jell showed that it consisted essentially of a small proportion of volatile oils, including menthol and eucalyptol, incorporated in a petrolatum base. Analysis of the headache powders showed that they contained more than 3.5 grains of acetanilid each, namely, on the average of 12 powders not less than 4.02 grains of acetanilid.

The articles were alleged to be misbranded in that statements appearing on the labels, regarding their therapeutic and curative effects, falsely and fraudulently represented that the Mentho Jell was effective as a treatment for catarrh, hay fever, catarrhal deafness, sore throat, and all diseases caused by nasal catarrh; and that the headache powders were effective as a treatment for all kinds of headache and neuralgia, sick headaches, la grippe, fever, rheumatic pains, gout, and chest pains. The headache powders were alleged to be misbranded further in that the statement borne on the boxes, "Kalo's Headache Powders Contain Acetanilid three and one-half grains to each powder," was false and misleading since it represented that each of said powders contained 3½ grains of acetanilid; whereas a portion of said powders contained more than 3½ grains of acetanilid and the remainder contained less than 3½ grains per powder; and in that they contained acetanilid and the label on the package failed to bear a statement of the quantity or proportion of acetanilid contained therein.

On February 28, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $25.

W. R. Gregg, *Acting Secretary of Agriculture.*

28698. Adulteration and misbranding of Cristallovar (follicular hormone in aqueous solution). U. S. v. 174 Boxes of Cristallovar. Default decree of condemnation and destruction. (F. & D. No. 40246. Sample No. 38095–C.)

This product contained only approximately 30 percent of the amount of follicular homone represented on the label.

On September 3, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 174 boxes of Cristallovar at New York, N. Y., alleging that the article had been shipped from Milan, Italy, by Istituto Biochimico Italiano on or about September 12, 1936, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, that is, on the box label, "Follicular Hormone * * * each vial of 2 cc. contains 2000 international units," since it contained in each 2 cubic centimeters follicular hormone in an amount materially less than 2,000 international units.

It was alleged to be misbranded in that the statements on the label, "Follicular Hormone * * * Physiologically Standardized and Biologically Controlled—Each Vial of 2 cc. Contains 2,000 International Units," were false and misleading when applied to an article that contained follicular hormone in an amount materially less than 2,000 international units per 2 cubic centimeters.

On October 13, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28699. Misbranding of Lacto-Cal. U. S. v. 41 Packages of Lacto-Cal. Default decree of condemnation and destruction. (F. & D. No. 41539. Sample No. 48424–C.)

This product was misbranded because of false and fraudulent therapeutic and curative claims in the labeling. It also was labeled to indicate that it contained a substantial proportion of calcium, whereas it contained but an insignificant amount.

On January 26, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 packages of Lacto-Cal at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about September 24, 1937, from Los Angeles, Calif., by Lacto-Cal Laboratories, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article showed that it consisted essentially of water, lactic acid, calcium lactate, a small proportion of volatile acid, coloring,

and small proportions of compounds of sodium, magnesium, chlorine, and sulphur. Each 100 cubic centimeters contained 0.53 grams of calcium lactate and 9.0 grams of lactic acid (which is the eqivalent of approximately ½ grain of calcium lactate and 5 grains of lactic acid per teaspoonful).

The article was alleged to be misbranded in that the name "Lacto-Cal" was false and misleading since it represented that the article contained a significant proportion of calcium; whereas it did not contain a significant proportion of calcium. It was alleged to be misbranded further in that the following statements appearing on the label, regarding its curative or therapeutic effects, were false and fraudulent: "Lacto-Cal A tonic for Nerves and Brain A General Builder Assists in Normalizing and Balancing the Gastric Juices * * * Dose: One to two teaspoonfuls in glass of cold or warm water before each meal. At bedtime take in hot water only." The article was alleged to be misbranded further in that its label bore a statement, "Read the printed circular," which circular contained false and fraudulent statements regarding its curative or therapeutic effectiveness in the treatment of aching limbs, painful joints, stinging nerves, acid in the blood, neuritis, sciatica, arthritis, lumbago, painful feet, rheumatism, intestinal putrefaction, debility of various organs, hyperacidity, indigestion, colitis, stomach catarrh, gastric ulcers, stomach gas, dropsy, colonitis, palpitation of the heart, and many other ailments; and its effectiveness to restore health, regulate the action of the digestive organs, to act as a tonic supplying to the blood, tissues, bones, organs, and all living cells what they need; and to assist in normalizing or balancing the gastric juices; its effectiveness as a nerve and brain food and bone and tissue builder; and its effectiveness to cause restful sleep.

On February 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28700. Misbranding of Omar Palmer's Famous Prescriptions. U. S. v. 35 Bottles of Omar Palmer's Prescription No. 53, et al. Default decree of condemnation and destruction. (F. & D. Nos. 40645 to 40651, incl. Sample Nos. 43335–C to 43339–C, incl., and 64528–C to 64534–C, incl.)

These seven products bore false and fraudulent statements and devices on the labeling regarding their therapeutic and curative effects. Certain of the products contained less alcohol than declared and two of them bore misleading statements regarding their composition.

On November 19, 1937, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 bottles and 1 can of Omar Palmer's Famous Prescriptions at Fort Smith, Ark., alleging that the articles had been shipped in interstate commerce on or about June 26 and July 3, 1937, from Hurley, Mo., by Oto Remedies, Inc., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the articles consisted essentially as follows: Prescription No. 53, of extracts of plant drugs, including an alkaloidal drug and a small proportion of volatile acid such as acetic acid, alcohol (6.7 percent), and water; Prescription No. 47, of potassium acetate and a small proportion of extracts of plant drugs, including buchu and a saponin-bearing drug, alcohol (8.7 percent), and water; Prescription No. 38, of an arsenic compound, extracts of plant drugs including a laxative drug, salicylic acid (0.1 percent), alcohol (4.8 percent), and water; Prescription No. 61, of sodium salicylate (5 percent), extracts of plant drugs, alcohol (8.5 percent), and water colored with caramel and sweetened with saccharin; Prescription No. 94, of an arsenic compound, extracts of plant drugs including lobelia, alcohol, and water; Prescription No. 76, of small proportions of guaiacol, menthol, and extracts of plant drugs, alcohol (6.2 percent), sugar, and water; and Prescription Pile Ointment, of sulphur (8.8 percent), and iron sulphate (2.6 percent) incorporated in a petrolatum base.

Prescription No. 53 was alleged to be misbranded in that the following statement on the label falsely and fraudulently represented its therapeutic and curative effectiveness: "Indicated in gas in the stomach, sour stomach, heartburn, flatulency due to hyperacidity of stomach." It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 47 was alleged to be misbranded in that the designation "Omar Palmer's Famous Prescription No. 47" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer

of Hurley, Mo. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for diseases of the kidney and the bladder, elimination of the poisons from the system, puffing under the eyes, pains across the back, getting up at nights, and all conditions caused from sluggish kidneys, having attained such meaning as a result of false and fraudulent statements appearing in a certain circular, entitled "A True and Interesting Story, etc.," which was furnished with the drugs to the consignee. It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 38 was alleged to be misbranded in that the designation "Omar Palmer's Famous Prescription No. 38" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Missouri. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for run-down condition, loss of appetite, sleepless nights, and nervousness, having attained such meaning as a result of false and fraudulent statements appearing in the aforesaid circular. It was alleged to be misbranded further in that its labels stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol.

Prescription No. 61 was alleged to be misbranded in that the following statements on the label falsely and fraudulently represented its curative and therapeutic effectiveness: "For many forms of rheumatism. Directions: One teaspoonful in water before meals." It was alleged to be misbranded further in that its label stated that it contained 15 percent of alcohol, whereas it contained materially less alcohol. It was alleged to be misbranded further in that the statement on the label, "Contains infusion of phytalacca," was false and misleading when applied to an article containing in addition to extract of phytolacca, sodium salicylate, no mention of which was made on the label.

Prescription No. 94 was alleged to be misbranded in that the following statement on the label falsely and fraudulently represented its therapeutic and curative effectiveness: "For many forms of asthma." It was alleged to be misbranded further in that the statement on the label, "contains potassium arsenite," was false and misleading when applied to an article containing in addition to potassium arsenite, extracts of plant drugs, including an alkaloid-containing drug such as lobelia.

Prescription No. 76 was alleged to be misbranded in that the designation, "Omar Palmer's Famous Prescription No. 76" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Mo. It has been tried and proven by years of use," constituted a device regarding the therapeutic and curative effectiveness of the article as a remedy for coughs and colds, including stubborn coughs and colds and bronchial irritations, having attained such meaning as a result of false and fraudulent statements appearing in the aforesaid circular.

The Prescription Pile Ointment was alleged to be misbranded in that the designation "Prescription Pile Ointment" and the statement on the label, "This is a standard prescription as used and recommended by Omar Palmer of Hurley, Mo. It has been tried and proven by years of use," constituted a device which falsely and fraudulently represented the curative and therapeutic effectiveness of the article.

On January 24, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28701. Misbranding of mentholated kerchiefs. U. S. v. 3 Gross of Mentholated Kerchiefs. Default decree of condemnation and destruction. (F. & D. No. 41819. Sample No. 9638–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 23, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3 gross of mentholated kerchiefs at Lancaster, Pa., alleging that the article had been shipped in interstate commerce on or about January 29, 1938, by the Sterilek Co., Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted of tissue paper impregnated with menthol.

It was alleged to be misbranded in that the following statements borne on the wrapper, regarding its curative or therapeutic effects, were false and fraudulent: "For any nasal irritations Mentholated LaPuris Kerchiefs are ideal. * * * For * * * Hay Fever. Rose Fever. Sinus. Soothes Nasal Irritation or * * * Inflamed * * * Skin, Use as Protection When in Crowds, * * * These Mentholated Kerchiefs are especially recommended for use in case of:—Rose Fever, Hay Fever."

On March 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28702. Misbranding of milk of magnesia. U. S. v. 276 Bottles of Milk of Magnesia. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41841. Sample No. 10009–D.)

This product was short of the declared volume.

On March 1, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 276 bottles of milk of magnesia at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about February 1, 1938, by the Certified Pharmacal Co. from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement on the label, "8 Fluid Ounces," was false and misleading when applied to an article the volume of contents of which was less than 8 fluid ounces.

On March 29, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

W. R. GREGG, *Acting Secretary of Agriculture.*

28703. Misbranding of C. F. Emmett's Remedy for Colic. U. S. v. 90 Bottles of C. F. Emmett's Remedy. Default decree of condemnation. Product destroyed. (F. & D. No. 40905. Sample No. 61157–C.)

The labeling of this veterinary product bore false and fraudulent representations regarding its curative or therapeutic effects.

On November 26, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 90 bottles of C. F. Emmett's Remedy for Colic at Meridian, Miss., alleging that the article had been shipped in interstate commerce on or about April 8 and August 27, 1937, by I. L. Lyons & Co., Ltd., from New Orleans, La., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of an extract of plant drugs, including nux vomica and colocynth in a dilution of alcohol.

The article was alleged to be misbranded in that the following statements in the labeling, regarding its curative or therapeutic effects, were false and fraudulent: (Bottle and carton) "Remedy * * * For Colic in Horses and Mules"; (bottle only) "Dose—Give animal a teaspoonful on a tablespoonful of sugar and place upon the tongue, or a teaspoonful in a wine glass of water and inject into the mouth. Repeat every ten minutes until relieved, not exceeding 5 doses. In case the animal is swollen any length of time, give one pint raw Linseed Oil, one ounce Spirits Turpentine, and one teaspoonful Emmett's Remedy—all mixed together. Give as a drench and repeat in one hour. In any mild case of colic, give 15 or 20 drops on the tongue every 15 minutes until relieved, not exceeding 8 doses."

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of in the manner provided for by law. It was destroyed by the United States marshal.

W. R. GREGG, *Acting Secretary of Agriculture.*

28704. Misbranding of boric acid. U. S. v. Zenith Drug, Inc. Plea of guilty. Fine, $20. (F. & D. No. 38630. Sample Nos. 8644–C, 8784–C.)

This product was short of the declared weight.

On August 2, 1937, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Zenith Drug, Inc., New York, N. Y., alleg-

ing shipment by said corporation in violation of the Food and Drugs Act, on or about April 2 and July 10, 1936, from the State of New York into the States of Connecticut and New Jersey, respectively, of quantities of boric acid that was misbranded. The two lots of the article were labeled in part, respectively: "Boric Acid U. S. P., prepared expressly for Syl-May * * * Stamford, Conn."; "Boric Acid Powdered Pure U. S. P., Zenith Drug, Inc., New York, N. Y."

It was alleged to be misbranded in that the statements "8 ounces" and "4 Oz.," borne on the labels, were false and misleading since they represented that each of the packages contained 8 ounces in the case of one lot and 4 ounces in the case of the other; whereas each of the packages did not contain the said amounts but did contain less amounts.

On September 8, 1937, a plea of guilty was entered and the defendant was sentenced to pay a fine of $20.

W. R. Gregg, *Acting Secretary of Agriculture.*

28705. Misbranding of Renolin. U. S. v. 33 Bottles of Renolin. Default decree of condemnation and destruction. (F. & D. No. 40950. Sample Nos. 11994-C, 55076-C.)

The labeling of this product bore false and fraudulent curative and therapeutic claims. It also conveyed the impression that the article could be used without ill effects, whereas its use might produce serious ill effects.

On November 29, 1937, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 bottles of Renolin at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about July 9 and October 18, 1937, from Bradford, N. H., by the Renolin Co., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of the article showed that each tablet contained approximately 5 grains of cinchophen, 1.5 grains of aminopyrine, 2.8 grains of calcium carbonate, and a trace of phenolphthalein.

The article was alleged to be misbranded in that the following statements appearing upon the package and in a circular contained in the package were false and misleading since they created the impression that the article might be consumed in accordance with the directions without risk of ill effects; whereas it might not be so consumed but only with the risk of serious ill effects: (Bottle label) "A Relief for Rheumatism (Uric Acid Eliminent) * * * 1 or 2 Tablets with a glassful of Water after each meal and at bedtime"; (carton) "A Relief for Pain Articular and Muscular of Neuralgias Rheumatism Lumbago Sciatica and Gout * * * One or two Tablets with a glassful of water after each meal and at bedtime"; (circular) "For the Relief of Pain Articular and Muscular of Neuralgias, Rheumatism, Lumbago, Sciatica and Gout, Renolin contains no * * * Narcotics nor Habit Forming Drugs and does not harm the heart. Directions Take one or two tablets a short time after each meal and at bedtime as needed. Wash tablets down with a glassful of water. When prolonged treatment is necessary and the heavier dosage is employed, it is recommended that at the end of three or four days, the tablets be stopped entirely for three days and then resumed as before. * * * when needed Sodium Phosphate taken before breakfast, is highly recommended for keeping the bowels in proper condition. A tickling sensation or gas on the stomach occasionally takes place from the use of Renolin. This condition seldom occurs if plenty of water is consumed and may be entirely overcome by taking one-half teaspoonful of Bicarbonate of Soda (common soda) dissolved in the glassful of water with which the tablets are swallowed. In all cases drink plenty of good pure water. Renolin being antirheumatic * * * more efficient, rapid and less irritating in action and in many respects more desirable for the treatment of rheumatic pains, many prefer Renolin." Further misbranding was alleged in that the foregoing statements were false and fraudulent since they created the impression that the article was a safe and appropriate remedy for the disorders mentioned, when it was a dangerous drug.

On February 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28706. Misbranding of Dr. Grabill's Prescription No. 1313. U. S. v. Hi-Test Laboratories, Inc. Plea of nolo contendere. Judgment of guilty. Fine, $100 and costs. (F. & D. No. 36980. Sample Nos. 32280-B, 32654-B.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in the labeling. It also was labeled to indicate that it was

harmless, whereas it was a harmful and dangerous preparation which contained cinchophen.

On May 15, 1936, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Hi-Test Laboratories, Inc., Cleveland, Ohio, alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about July 10 and August 6, 1935, from the State of Ohio into the States of Tennessee and Missouri, respectively, of quantities of Dr. Grabill's Prescription No. 1313 which was misbranded. The article, which consisted of tablets, was labeled in part: "Distributed by Hi-Test Laboratories, Cleveland, Ohio."

Samples from each of the two shipments were found to contain 7.71 grains and 7.72 grains, respectively, of cinchophen per tablet.

The article was alleged to be misbranded in that certain statements regarding its therapeutic and curative effects, borne on the package label, falsely and fraudulently represented that it was effective as a relief from rheumatism, sciatica, neuralgia, lumbago, sore muscles, neuritis, and arthritis; and effective to assist in the elimination of acid poisons. It was alleged to be misbranded further in that the statements, "Contains No Narcotics and Are not Habit Forming Prescribed by Leading Physicians Directions," were false and misleading in that they represented that the article when taken in accordance with directions. was harmless; whereas it was a harmful and dangerous preparation which contained cinchophen.

On November 8, 1937, the defendant entered a plea of nolo contendere, was found guilty by the court, and sentenced to pay a fine of $100 and costs.

W. R. Gregg, *Acting Secretary of Agriculture.*

28707. Misbranding of Happy Day Headache Powders. U. S. v. 504 Packages of Happy Day Headache Powders. Default decree of condemnation and destruction. (F. & D. No. 40637. Sample No. 53375–C.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On November 3, 1937, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 504 packages of Happy Day Headache Powders at Birmingham, Ala., alleging that the article had been shipped in interstate commerce on or about July 31, 1937, from Lafayette, La., by Gulf Laboratories Co., Inc., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article showed that the powders each contained approximately 2.4 grains of acetanilid, 3.2 grains of aspirin, 0.4 grain of caffeine, and 0.2 grain of phenolphthalein, together with milk sugar and a small amount of citric acid.

The article was alleged to be misbranded in that the following statements regarding its curative and therapeutic effects were false and fraudulent: (Package label) "For the Relief of Discomfort Arising from * * * Nervousness * * * Women will find this especially beneficial during painful menstrual periods"; (white circular) "Pains Caused by Menstrual Disturbances * * * For Relief of * * * Tonsilitis * * * 'for throat irritations such as tonsilitis' * * * 'for pains caused by menstrual disturbances.' * * * 'will give relief from flu * * * nervousness.' * * * 'Happy Day is an outstanding remedy.' * * * 'quick relief from pain and discomfort due to * * * rheumatism, influenza, throat irritations and nervousness' "; (leaflet) "Happy Day For The Flu * * * nervousness * * * will give relief to people suffering from the flu * * * for throat irritations such as tonsilitis * * * Happy Day Will Afford Relief From Pains Due to Rheumatism * * * will afford amazingly quick relief from pains and discomfort due to * * * rheumatism, influenza, throat irritations and nervousness. * * * for rheumatic pains, nervousness * * * for irritations of the throat * * * quickly relieve pains caused by * * * rheumatic pains * * * an outstanding remedy * * *. Will Relieve Pain Caused by Menstrual Disturbances * * * will particularly afford relief from pain caused from menstrual disturbances. * * * effective for the treatment of headaches and ailments of similar nature."

On February 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28708. Misbranding of Sodium Tartrate with Citrate of Magnesia Effervescent and Ferro China-Tonico Tessitore. U. S. v. Tessitore's Chemical Manufacturing Co., Inc., and Alfredo Tessitore. Pleas of guilty. One year's probation. (F. & D. No. 39826. Sample Nos. 11952–C, 11953–C.)

The first-named product was misbranded because it contained little, if any, citrate of magnesia; and the second was misbranded because it contained less iron and a smaller proportion of cinchona extractives than indicated on the label, and because of false and fraudulent curative and therapeutic claims.

On November 29, 1937, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Tessitore's Chemical Manufacturing Co., Inc., and Alfredo Tessitore, of Providence, R. I., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about December 28, 1936, from the State of Rhode Island into the State of Massachusetts of quantities of the hereinafter-described drug products which were misbranded. The articles were labeled: "Tessitore's Chemical Mfg. Co., Inc., Providence, R. I."

Analysis of the Ferro China-Tonico Tessitore showed that it consisted essentially of alkaloids of cinchona equivalent to 5 grams of cinchona bark per 1,000 cubic centimeters of the solution, a small proportion of iron and ammonium citrate, arsenic, saccharin, alcohol, and water.

The sodium tartrate with citrate of magnesia was alleged to be misbranded in that the said statement was false and misleading since it represented that the article was composed in large part of citrate of magnesia; whereas it contained little, if any, citrate of magnesia.

The Ferro China-Tonico Tessitore was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since it was represented to consist essentially of iron and cinchona and to contain in each 1,000 cubic centimeters 100 grams of the alkaloids of cinchona bark; whereas it contained derivatives of iron and cinchona in inappreciable amounts and contained ingredients other than iron and cinchona extractives; and it did not contain in each 1,000 cubic centimeters 100 grams of the alkaloids of cinchona bark but did contain a less amount. It was alleged to be misbranded in that the statement "Ferro-China," blown in the bottle and borne on the label, and the statement, "Ferro-China Tonico Tessitore Iron and Elixir Calisaya Compound, Formula: Alkaloids of 100 Gm Cinchona Bark * * * to make 1000.00 cc.," borne on the label, were false and misleading. It was alleged to be misbranded further in that certain statements on the bottle label, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective to ensure health, as a digestive, to prevent and combat paludal fevers, and to act as antifebrile; and effective as a treatment and cure for headache, loss of appetite, nausea, anemia, and pain in the stomach.

On February 14, 1938, the defendants entered pleas of guilty and were placed on probation for a period of 1 year.

W. R. Gregg, *Acting Secretary of Agriculture.*

28709. Adulteration and misbranding of rubber prophylactics. U. S. v. 71 Gross of Rubber Prophylactics (and 5 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41521, 41522, 41545, 41567, 41647, 42068. Sample Nos. 1038–D, 1404–D, 7652–D, 7653–D, 7783–D, 9353–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between January 26 and March 30, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 446½ gross of rubber prophylactics in various lots at New York, N. Y.; Providence, R. I.; Baltimore, Md.; and New Orleans, La. The libels alleged that the article had been shipped in interstate commerce on various dates between November 26, 1937, and March 3, 1938, from Chicago, Ill., by Universal Merchandise Co.; and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Clinic" or "Saf-T-Skin."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

It was alleged to be misbranded in that the following statements variously appearing in the labeling of the several lots of the product were false and misleading: (Clinic brand) "A dependable product * * * Disease Preventive * * * Disease Preventative * * * Guaranteed 5 Years * * * For

Prevention of Disease * * * 100% air tested * * * These prophylactics are guaranteed to be 100% air tested in the spirit of conforming with the new Federal requirements of the Department of Agriculture. Each product undergoes individual inspection and achieves the highest possible degree of perfection * * * Guaranteed 100% air tested"; (Saf-T-Skin) "The Dependable Prophylactic * * * Saf-T-Skin * * * To prevent disease * * * The modern prophylactic * * * Guaranteed 5 years * * * Disease Preventative * * * For Medical Purposes."

On various dates between February 23 and April 23, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28710. Adulteration and misbranding of rubber prophylactics. U. S. v. 12 Gross of Rubber Prophylactics (and 3 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41631, 41691, 42084, 42189. Sample Nos. 1315–D, 14001–D, 14002–D, 24811–D, 24958–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between February 7 and April 15, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 47 9/24 gross of rubber prophylactics in various lots at Richmond, Va.; Manchester, N. H.; High Point, N. C.; and Wilmington, Del. The libels alleged that the article had been shipped in interstate commerce on various dates between September 16, 1937, and March 3, 1938, from New York, N. Y., by C. I. Lee & Co., Inc. The article was labeled in part, variously: "Liquid Latex," "Xcello's," "Blu-Pac," and "Star-Hide."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements on the labeling were false and misleading: (Liquid Latex) "Disease Preventative * * * Guaranteed five years"; (Xcello's) "The perfected Latex * * * For Prevention of Disease"; (Star-Hide) "For the Prevention of Contagious Disease * * * Unconditionally Guaranteed 5 Years"; (Blu-Pac) "Guaranteed for 2 Years * * * It is Guaranteed against deterioration for two years * * * For the prevention of Disease * * * Guaranteed Air Tested * * * Disease Preventative * * * Guaranteed 5 Years."

On various dates between March 5 and May 13, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28711. Adulteration and misbranding of rubber prophylactics. U. S. v. 20 Gross of Dr. Gray's Disease Preventative (and one other seizure of the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41763, 41764. Sample Nos. 7667–D, 7668–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 21, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 55 gross of rubber prophylactics at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 3 and 5, 1938, from New Haven, Conn., by the Crown Sundry Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing on the labeling were false and misleading: (Portion) "Dr. Gray's Disease Preventative Prophylactics * * * For Prevention of Disease * * * Guaranteed Five Years"; (remainder) "Prophylactic Disease Preventative * * * Guaranteed 100% Perfect * * * Guaranteed For Five Years."

On March 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28712. Alleged misbranding of procaine-epinephrin solution. U. S. v. Novocal Chemical Manufacturing Co., Inc. Tried to the court. Judgment of not guilty. (F. & D. No. 37942. Sample Nos. 40061–B, 42932–B, 42934–B, 42935–B.)

On April 6, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Novocal Chemical Manufacturing Co., Inc., Brooklyn, N. Y., alleging shipment by the said company in violation of the Food and Drugs Act on or about August 24, August 27, September 21, and November 9, 1935, from the State of New York into the States of Maryland and New Jersey, of quantities of procaine-epinephrin solution which was alleged to be misbranded.

Misbranding was alleged in that the following statements appearing in the labeling, (circulars accompanying all) "Each C. C. contains: procaine 0.02 gram," and (boxes) "Each c. c. contains procaine HCL * * * 0.02 gram," "Each c. c. contains—Procaine * * * 0.02 gm." or "Each c. c. contains Procaine HCL * * * 0.02 gm," were false and misleading since they represented that each cubic centimeter of the article contained 0.02 gram of procaine, to wit, procaine hydrochloride, whereas in the four lots constituting the shipments, each cubic centimeter was alleged to contain more than 0.02 gram, namely, 0.0238 gram, 0.0224 gram, 0.0233 gram, and 0.0224 gram, respectively.

On January 19 and 20, 1938, a jury having been waived, the case was tried before the court, and the defendant was found not guilty.

W. R. Gregg, *Acting Secretary of Agriculture.*

28713. Adulteration and misbranding of rubber prophylactics. U. S. v. 39 7/12 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41736. Sample No. 1274–D.)

An examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 16, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 7/12 gross of rubber prophylactics at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about March 9, 1937, from Akron, Ohio, by Killian Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: "Coronet 100% Blown Tested Prophylactics * * * For the Prevention of Disease * * * Coronet is non-porous. * * * Coronet is unqualifiedly Guaranteed * * * Coronet's Greater * * * Quality will be instantly recognized. Don't gamble with your health * * * The prophylactic that is blown tested."

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28714. Adulteration and misbranding of rubber prophylactics. U. S. v. 399 Gross and 1,000 Gross of Rubber Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 41358, 41489. Sample Nos. 8574–D, 50365–D.)

An examination of these prophylactics showed that some of them were defective in that they contained holes.

On January 11 and 26, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of two lots consisting of 1,399 gross of rubber prophylactics at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about November 10 and 24, 1937, from Atlanta, Ga., by Olympia Laboratories, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pau."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Both lots) "Tested * * * Guaranteed

Perfect * * * Finest Quality * * * For Prevention of Disease"; (one lot) "Carefully Tested 100% Perfect * * * Guaranteed Merchandise."

On February 28 and March 18, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28715. Adulteration and misbranding of rubber prophylactics. U. S. v. 19 Gross of Rubber Prophylactics (and six other similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41436, 41503, 41555, 41556, 41573, 41601, 41649, 41905. Sample Nos. 1085–D, 1411–D, 1412–D, 7895–D, 8022–D, 8023–D, 8570–D, 8577–D, 9601–D, 9602–D.)

An examination of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between January 18 and March 8, 1938, six United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 450½ gross of rubber prophylactics in various lots at Chicago, Ill.; Baltimore, Md.; Philadelphia, Wilkes-Barre, and Pittsburgh, Pa.; and Newark, N. J. The libels alleged that the article had been shipped in interstate commerce on various dates between October 1, 1937, and February 25, 1938, from New York, N. Y., by the Goodwear Rubber Co.; and charged adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part variously: "Gold Ray"; "Amazons"; "Silverpac"; "Admirals"; "Xcello's"; "Skin Pak."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements variously appearing in the labeling of the several products were false and misleading: (Gold Ray) "Disease Preventative * * * Air Tested * * * For Prevention of Disease * * * Tested Liquid Latex * * * Guaranteed 5 years," (on labeling of a portion of the Gold Ray) "The Finest Latex Prophylactic * * * Tested * * * Triple Tested"; (Amazons) "A Disease Preventative * * * Learn to keep well * * * Finest * * * Prophylactic Made * * *. Guaranteed to be blown on special air pressure machines, triple tested * * * tested * * * guaranteed 5 years * * * disease preventative"; (Silverpac) "Non-porous smoke tested * * * Guaranteed 5 Years * * * Tested Liquid Latex * * * Guaranteed 5 years * * * For Prevention of Disease * * * Disease Preventative * * * Your health demands Silverpac * * * This is your seal of protection * * * Tested"; (Admirals) "Prevent infection * * * Blown Tested * * * On Specially Designed Compressed Air Machines * * * Carefully Selected * * * Laboratory Tested * * * Safe * * * Guaranteed 5 years * * * Guaranteed for 5 years * * * A * * * Safer Prophylactic * * * Admirals are Absolutely Guaranteed * * * For Prevention of Disease"; (Xcello's) "Xcello's * * * The Perfected Latex * * * For Prevention of Disease * * * For the Prevention of Disease"; (Skin Pak) "Skin * * * Guaranteed 2 years * * * Safe Preventative * * * For Prevention of Disease."

On various dates between February 28 and April 29, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28716. Adulteration and misbranding of rubber prophylactics. U. S. v. 4 5/12 Gross of Rubber Prophylactics (and 2 other seizure actions). Default decree of condemnation and destruction. (F. & D. Nos. 41559, 41570, 41699. Sample Nos. 1577–D, 1578–D, 10254–D, 10255–D, 13844–D, 13846–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On January 31 and February 16, 1938, the United States attorneys for the Eastern District of Pennsylvania, the District of Massachusetts, and the Eastern District of South Carolina, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 54½ gross of rubber prophylactics in various lots at Philadelphia, Pa.; Boston, Mass.; and Lamar, S. C. The libels alleged that the article had been shipped in interstate commerce on or about December 16 and 31, 1937, and January 21, 1938, from New York, N. Y., by Everett Rubber Co. The respective lots of the article were labeled in part: "Gold Tex"; "Xcello's"; "Tetratex."

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Gold Tex) "Prophylactic Disease Preventative * * * Guaranteed 100% Perfect * * * Guaranteed for Five Years"; (Xcello's) "For Prevention of Disease * * * Xcello's the perfected latex Guaranteed Five Years Notice the Within Articles are Manufactured and sold for Prevention of Contagious Diseases"; (Tetratex) "For Prevention of Disease * * * Prophylactic * * * Guaranteed Five Years."

On February 28 and March 10 and 28, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28717. Adulteration and misbranding of rubber prophylactics. U. S. v. 25 Gross and 45 Gross of Rubber Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 41851, 41852. Sample Nos. 9412–D, 9413–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On March 1, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 70 gross of rubber prophylactics at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about January 28, 1938, from New York, N. Y., by Gotham Sales Co. The article was labeled in part: "Silver Skin" or "Genuine Liquid Latex."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Silver Skin) "Skin * * * Prophylactics, * * * For Prevention of Disease, * * * Guaranteed Five Years"; (Liquid Latex) "For Medical Purposes * * * Guaranteed five years."

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28718. Adulteration and misbranding of rubber prophylactics. U. S. v. 3⅜ Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41651. Sample No. 1724–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 12, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3⅜ gross of rubber prophylactics at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about August 7, 1937, from Akron, Ohio, by the Akron Drug & Sundries Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Koin-Pack."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: "The Sanitary Prophylactic," "For the Prevention of Disease," and "Sold by Druggists only on Advice of Physicians for Prevention of Disease."

On March 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28719. Adulteration and misbranding of rubber prophylactics. U. S. v. 26 Gross and 29 Gross of Rubber Prophylactics (and 4 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41558, 41650, 42017, 42079, 42123. Sample Nos. 812–D, 813–D, 7896–D, 9747–D, 9962–D, 9982–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between January 31 and April 4, 1938, the United States attorneys for the Northern District of Georgia and the Middle District of Penn-

sylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 89⅛ gross of rubber prophylactics in various lots at Atlanta, Ga., and Wilkes-Barre and Lock Haven, Pa. The libels alleged that the article had been shipped in interstate commerce on various dates between November 13, 1937, and March 22, 1938, from New York, N. Y., by the Stardant Rubber Co.; and charged adulteration and misbranding in violation of the Food and Drugs Act. The various lots of the product were labeled in part: "Gold Star"; "Silver Star"; "Gold-Tex"; "The Aristocrat."

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing on the packages were false and misleading: (Gold Star) "Guaranteed 100 Per Cent Perfect * * * Super Liquid Latex * * * Disease Preventive * * * Tested"; (Silver Star) "Disease Preventive * * * 100 P. C. Perfect * * * Tested * * * For Prevention of Disease"; (Gold-Tex) "Prophylactics * * * Disease Preventative * * * Guaranteed 100% Perfect * * * Guaranteed for 5 years"; (The Aristocrat) "The Aristocrat Prophylactics in this package are manufactured under high production standards * * * used for the prevention of contagious diseases unconditionally guaranteed for five years."

On various dates between February 19 and May 2, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28720. Adulteration and misbranding of rubber prophylactics. U. S. v. 10 Gross and 10 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. Nos. 41499, 41500. Sample Nos. 8575–D, 8576–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On January 26, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2 lots consisting of 20 gross of rubber prophylactics at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 29, 1937, from Akron, Ohio, by Crown Rubber Sundries, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements on the labeling were false and misleading: (Both lots) "For Prevention of Disease," * * * Guaranteed Five Years"; (one lot) "Prophylactics."

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28721. Adulteration and misbranding of rubber prophylactics. U. S. v. 65 Gross of Rubber Prophylactics (and two other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41596, 41597, 41598. Sample Nos. 8766–D, 8767–D, 8768–D.)

An examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 4, 1938, the United States attorney for the Eastern District of Wisconsin, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 120 gross of rubber prophylactics at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce on or about October 11 and December 22, 1937, from Chicago, Ill., by Latex Distributing Co., Chicago, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled variously: "Xcello's," "Texide," or "Gold Tex." It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing on the labeling were false and misleading: (Xcello's) "The perfected Latex * * * For Prevention of Disease," "Guaranteed Five Years," "The Within Articles are Manufactured and sold for the Prevention of Contagious Diseases"; (Texide)

"Prophylactic * * * Guaranteed Five Years * * * For Prevention of Disease"; (Gold Tex) "Prophylactic * * * Disease Preventive."

On March 11, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28722. Adulteration and misbranding of rubber prophylactics. U. S. v. 21½ Gross of Rubber Prophylactics (and 6 other similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41529, 41566, 41606, 41786, 42000, 42015, 42016. Sample Nos. 1403–D, 7536–D, 9749–D, 9750–D, 11763–D, 14051–D, 14052–D, 17224–D, 17225–D.)

An examination of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between January 25 and March 25, 1938, six United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 94$^{5}/_{12}$ gross of rubber prophylactics in various lots at Newark, N. J.; Baltimore, Md.; Boston, Mass.; New Haven, Conn.; Washington, D. C.; and Williamsport, Pa., alleging that the article had been shipped in interstate commerce on various dates between October 29, 1937, and February 28, 1938, from New York, N. Y., by Joseph Jacobs, and charging adulteration and misbranding in violation of the Food and Drugs Act. Various lots of the article were labeled in part: "Skintex," "Real-Skin," "Texide," "Pure-Tex," "Dr. Reed's Rubber-Tissue," and "Jewels."

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements variously appearing in the labeling of the several brands of the product were false and misleading: (Skintex) "Skintex * * * a Disease Preventative * * * Guaranteed 2 Years * * * Prophylactic"; (on a portion only of the Skintex) "Guaranteed 5 Years"; (Real-Skin) "Excellent Quality * * * For Prevention of Disease * * * Real-Skin * * * Guaranteed 2 years"; (Texide) "Prophylactics * * * Guaranteed 5 Years * * * Against deterioration under Normal Conditions * * * For the Prevention of Disease * * * Prophylactic * * * Guaranteed 5 Years"; (Pure-Tex) "Excellent Quality * * * Guaranteed 5 Years * * * Triple Air tested * * * For Prevention of Diseases"; (Dr. Reed's Rubber-Tissue) "Guaranteed 5 Years * * * Unconditionally Guaranteed * * * For Prevention of Disease"; (Jewels) "A Tested Disease Preventative * * * A Better Latex * * * A Better Product * * * Guaranteed 5 Years * * * Disease Preventative * * * Tested."

On various dates between March 15 and May 11, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28723. Adulteration and misbranding of rubber prophylactics. U. S. v. 9⅝ Gross of Liquid Latex (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41656 to 41660, incl. Sample Nos. 1167–D to 1172–D, incl.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 10, 1938, the United States attorney for the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 40⅝ gross of rubber prophylactics at Erie, Pa., alleging that the article had been shipped in interstate commerce on or about January 20, 1938, from Akron, Ohio, by the Better Rubber Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing on the labeling were false and misleading: (Certain lots) "Guaranteed Five Years * * * For Prevention of Disease"; (on one lot) "Tru-Tex * * * Prophylactics * * * Disease Preventative"; (on one other lot) "Xcello's * * * The perfected latex Guaranteed Five Years. Notice the Within Articles are Manufactured and sold for the Prevention of Contagious Disease."

On March 30 and April 1, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

28724. Adulteration and misbranding of rubber prophylactics. U. S. v. 5 Gross and 5 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41634. Sample Nos. 1466–D, 1467–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On February 7, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 10 gross of rubber prophylactics at Atlantic City, N. J., alleging that the article had been shipped in interstate commerce on or about November 17 and December 18, 1937, from New York, N. Y., by Ross Products, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Cartons in one lot) "For Medical Purposes * * * Five Year Guarantee"; (envelope, wrapper, and article itself in other lot) "Air Tested * * * Extra Quality Special Selected * * * The Within Articles are manufactured to be sold and used for the Prevention of Contagious Diseases * * * For Prevention of Disease."

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28725. Adulteration and misbranding of rubber prophylactics. U. S. v. 29 Gross of Rubber Prophylactics (and 18 other seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41374, 41375, 41420, 41447, 41448, 41492, 41494, 41495, 41560, 41561, 41562, 41599, 41602, 41603, 41604, 41624, 41625, 41626, 41760, 41761, 41762, 41952. Sample Nos. 1084–D, 1086–D, 1087–D, 1088–D, 2346–D, 2348–D, 2349–D, 2626–D to 2630–D, incl., 7646–D, 7647–D, 7649–D, 8562–D, 8565–D, 8568–D, 8569–D, 9001–D, 9394–D, 9395–D, 9396–D, 9502–D, 9503–D, 9505–D, 9506–D.)

Examination of these prophylactics showed that some were defective in that they contained holes.

On various dates between January 14 and March 15, 1938, six United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 1,105 gross and 530 packages of rubber prophylactics in various lots at New York, N. Y.; Chicago, Ill.; Oklahoma City, Okla.; Sloan, N. Y.; St. Louis, Mo.; and Pittsburgh, Pa. The libels alleged that the article had been shipped in interstate commerce on various dates between November 9, 1937, and January 12, 1938, from Akron, Ohio, by Killashun Sales Division; and charged adulteration and misbranding in violation of the Food and Drugs Act. The article was variously designated: "Xcello's"; "Tetratex"; "L. E. S."; "Texide"; "Silver Tex." Portions designated as L. E. S., Texide, and Tetratex were labeled: "L. E. Shunk Latex Products, Inc., Akron, Ohio." One lot, designated as Excello's, was labeled: "The Killian Mfg. Company, Akron, Ohio."

The articles were alleged to be adulterated in that their strength fell below the professed standard or quality under which they were sold.

Misbranding was alleged in that the following statements appearing in the labeling of the several lots of the product were false and misleading: (Xcello's) "Xcello's * * * For Prevention of Disease * * * The Perfected Latex"; (Tetratex) "Prophylactic * * * For Prevention of Disease * * * Strongest Liquid Latex * * * Prophylactics * * * Guaranteed 5 Years * * * Disease Preventative * * * For Medical Purposes"; (Texide) "Prophylactic * * * Guaranteed 5 years * * * Against Deterioration under normal conditions * * * For the Prevention of Disease * * * Prophylactics * * * For Prevention of Disease"; (L. E. S.) "Prophylactics * * * Guaranteed 5 Years * * * For the Prevention of Disease * * * For Prevention of Disease * * * Disease Preventive * * * Guaranteed 5 Yrs."; (Silver Tex) "Superfine * * * Prophylactics * * * Guaranteed 5 Yrs. * * * For the Prevention of Contagious Diseases * * * For Prevention of Disease."

On various dates between February 26 and April 21, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28726. Adulteration and misbranding of rubber prophylactics. U. S. v. 31 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41569. Sample No. 1407-D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On or about January 31, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 31 gross of rubber prophylactics at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about December 16, 1937, from New York, N. Y., by the Aaronoff Rubber Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Kamelskin."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing upon the package were false and misleading: "Kamelskin * * * Prophylactic * * * For Prevention of Disease * * * Guaranteed Five Years."

On March 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28727. Adulteration and misbranding of rubber prophylactics. U. S. v. 17 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41860. (Sample No. 15205-D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On or about March 8, 1938, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 gross of rubber prophylactics at Kansas City, Mo., alleging that the article had been shipped in interstate commerce on or about January 17, 1938, from Akron, Ohio, by the Superior Latex Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Golden Eagle."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: "100 percent perfect * * * Air tested, guaranteed five years * * * most perfect product manufactured and guaranteed against deterioration for five years. * * * for the prevention of contagious diseases * * * For Prevention of Disease."

On April 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28728. Adulteration and misbranding of rubber prophylactics. U. S. v. 32 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 42250. Sample No. 16347-D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On April 28, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 32 gross of rubber prophylactics at New Orleans, La., alleging that the article had been shipped in interstate commerce, a part on or about March 24, 1938, from Chicago, Ill., by the Universal Merchandise Co., and a part on or about April 2, 1938, from North Kansas City, Mo., by the Dean Rubber Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Clinic."

It was alleged to be adulterated in that its strength fell below the professed standard of quality under which it was sold.

It was alleged to be misbranded in that the following statements appearing on the package were false and misleading: "A dependable product * * * disease preventive * * * prophylactics * * * Guaranteed 5 years * * * for prevention of disease."

On May 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28729. Adulteration and misbranding of rubber prophylactics. U. S. v. 27½ Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 42026. Sample No. 24925–D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On or about March 24, 1938, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27½ gross of rubber prophylactics at Columbia, S. C., alleging that the article had been shipped in interstate commerce on or about February 5, 1938, from New York, N. Y., by Gotham Sales Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Saf-T-Skin."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the statements borne on the label, "Skin * * * To prevent disease," were false and misleading.

On April 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28730. Adulteration and misbranding of rubber prophylactics. U. S. v. 36 Gross and 32½ Gross of Rubber Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 41951, 41962. Sample Nos. 11745–D, 17597–D.)

On March 16, 1938, the United States attorneys for the District of Colorado and the Western District of Virginia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 68½ gross of rubber prophylactics, consigned by the Goodwear Rubber Co., in various lots at Denver, Colo., and Bristol, Va., alleging that the article had been shipped in interstate commerce on or about February 16, 24, and 28, 1938, from New York, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Three Dukes" or "Silverpac."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: (Three Dukes) "Superlative Quality * * * Guaranteed 5 years * * * Safer prophylactics * * * For prevention of disease * * * Safe * * * 100% tested"; (Silverpac) "Non-porous smoke tested * * * Guaranteed 5 years * * * tested liquid latex * * * for prevention of disease * * * Disease Preventative * * * your health demands Silverpac. This is your seal of protection."

On March 29 and April 11, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28731. Adulteration and misbranding of rubber prophylactics. U. S. v. 18½ Gross and 5⅔ Gross of Rubber Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 41690, 41784. Sample Nos. 14003–D, 14010–D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On February 14 and 19, 1938, the United States attorney for the District of New Hampshire, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 24⅙ gross of rubber prophylactics at Concord and Manchester, N. H., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, and January 19, 1938, from Boston, Mass., by the Arrow Sales Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Silk Tex."

It was alleged to be adulterated in that its strength fell below the standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: "Disease Preventive * * * tested * * * Guaranteed 5 years. * * * Guaranteed 100% Perfect."

On March 29, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28732. Adulteration and misbranding of rubber prophylactics. U. S. v. 39 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 41568. Sample No. 1405–D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On or about January 31, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 gross of rubber prophylactics at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about December 9, 1937, from New York, N. Y., by Bengor Products Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Silver Skin."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing on the package were false and misleading: "Skin * * * prophylactics * * * for prevention of disease * * * guaranteed 5 years."

On March 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28733. Adulteration and misbranding of rubber prophylactics. U. S. v. 32 Gross of Rubber Prophylactics (and 22 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41373, 41549, 41575, 41605, 41778 to 41783, incl., 41785, 41953, 41955, 41956, 41974, 41975, 41992, 42002, 42009, 42031, 42032, 42044, 42045, 42070, 42071, 42101, 42108, 42109, 42110, 42142, 42173, 42174, 42192. Sample Nos. 810–D, 1413–D, 3026–D to 3029–D, incl., 7773–D, 7774–D, 9002–D, 9382–D, 9384–D to 9389–D, incl., 9723–D, 9724–D, 9745–D, 9751–D, 9754–D, 9755–D, 14050–D, 15233–D, 15234–D, 15235–D, 16562–D, 16563–D, 16565–D, 16567–D, 16568–D, 16572–D, 17598–D, 19348–D, 19349–D, 19350–D, 19358–D, 24818–D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On various dates between January 13 and April 30, 1938, 12 United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 766½ gross of rubber prophylactics at Chicago, Ill.; Baltimore, Md.; Atlanta, Ga.; Sloan, N. Y.; Allentown, Pa.; San Francisco, Calif.; Jersey City, N. J.; Wilkes-Barre, Pa.; Tulsa, Okla.; Minneapolis, Minn.; Dallas, Tex.; and Boston, Mass. The libels alleged that the article had been shipped in interstate commerce on various dates between June 11, 1937, and April 4, 1938, from North Kansas City and Kansas City, Mo., by the Dean Rubber Manufacturing Co.; and charged adulteration and misbranding in violation of the Food and Drugs Act. The article was designated variously: "Druggists," "Liquid Latex," "Peacocks," "Gents," "Sekurity," "Parisians," "Rainbow," "Hermes," "Ultrex," "Feather Wate," "Royal Satin," and "Orchids."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

The product labeled "Peacocks" was alleged to be misbranded in that the following statements variously appearing in the labeling of certain lots, and similar statements appearing in a leaflet or circular accompanying other lots were false and misleading: "Prophylactics * * * Air Tested * * * For your Protection * * * Peacocks are Air blown tested 100% perfect. No other prophylactic quite as good for your protection. * * * Guaranteed for 5 years against deterioration * * * No. 1 Grade * * * Blown Tested * * * For Prevention of Disease * * * Prophylactic. Guaranteed for 10 years against Deterioration * * * Guaranteed 10 years * * * Every Peacock is specially selected and air tested to guard against bubbles, pin holes, blisters, etc. * * * For your own protection"; (display carton) "Sell your customer on the Health Feature of the Reservoir End. Explain how injurious the Plain End is to the prostate and nervous system. Make it clear that Dean's Reservoir End Peacocks * * * represent a scientific advancement in prophylactic manufacture"; (leaflet) "Prophylactic * * * Question * * * Why can I (the buyer) be reasonably certain the rubber prophylactics I purchase actually give protection? Do not buy from irresponsible druggists or peddlers that will offer you other than air-blown tested merchandise. The majority of peddlers sell rubber goods at cut prices because they sell throw outs and seconds. Be certain that the rubber prophylactics you buy carry the trade mark of a reputable rubber goods manufacturer. * * * Peacocks are all air-blown

tested and will give you protection. * * * Every Peacock air-Blown and minutely inspected * * * Thoroughly tested * * * All Dean's Reservoir End Peacocks are carefully air-tested and inspected before shipment * * * Peacocks are air Tested 100% Perfect."

The remaining lots were alleged to be misbranded in that the following statements, variously appearing in the labeling were false and misleading: (Druggists) "For Prevention of Disease"; (Gents) "Gents—represent quality * * * Contagious Disease Preventative * * * The finest prophylactic * * *. They have been individually Blown Tested and Selected. * * * Reliable * * * Prophylactic"; (Sekurity) "Sekurity * * * Prophylactics * * * Disease Preventive * * * Guaranteed 5 years * * * Gua'rd 5 years * * * Guaranteed for five years against deterioration * * * For Prevention of Disease"; (Parisians) "Medical Science Wages an unceasing battle against disease and one of its most important and effective weapons is prophylactic rubber goods * * * Be safe * * * dependability * * * and strength * * * Safety you never knew before * * * This merchandise is guaranteed to be perfect in every detail * * * To protect your most vital organs and health * * * Parisians are top quality. All defective and off grades discarded and thrown out. * * * highest selected quality. * * * Each and every Parisian is blown and hand tested * * * You need have no fear of deterioration. Under normal conditions they are guaranteed to keep for five years. * * * for * * * prevention of disease. * * * to safeguard your most vital organs and health. * * * Demand Parisians by name do not accept something just as good. Would you buy a car without a name, then why buy inferior prophylactics and take chances, your health comes first * * * The leading prophylactic in quality * * * is the Parisian * * * [translation from French] Parisians attain an absolute security and cannot be surpassed in * * * quality * * * [In English] Each and every Parisian is air blown tested by the new Process and there is nothing better made. * * * They are the strongest prophylactic that is possible to make. * * * No. 1 Grade Blown tested * * * For Prevention of Disease"; (Rainbow) "Guaranteed 5 years against deterioration * * * For Prevention of disease"; (Hermes) "Disease Preventive * * * Guaranteed for Five Years * * * Air blown tested"; (Ultrex) "Guaranteed perfect * * * Ultimate of quality * * * A Disease Preventive * * * Guaranteed Perfect * * * Demand Ultrex for complete protection * * * It is immune to deterioration for ten years * * * for disease prevention * * * Ultrex Brand Prophylactic Rubbers are individually * * * air-blown tested and guaranteed perfect * * * For greater safety * * * guaranteed for 5 years * * * Be sure you are getting full protection * * * For prevention of venereal disease * * * Air Blown tested"; (Feather Wate) "For prevention of disease * * * Prophylactics * * * Guaranteed for 10 years against deterioration * * * Blown tested, and free from holes or defects"; (Royal Satin) "For Prevention of Disease Only"; (Orchids) "Guaranteed for 10 years against deterioration. Every 'Orchid' is carefully selected * * * Strongest prophylactic made * * * For prevention of disease."

On various dates between February 19 and May 24, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28734. Adulteration and misbranding of almond oil. U. S. v. Charles L. Huisking & Co., Inc. Plea of guilty. Fine, $100. (F. & D. No. 39817. Sample No. 17677-C.)

This product was sold under the name aceite de almendras, i. e., oil of almond; whereas it consisted essentially of cottonseed oil flavored with benzaldehyde.

On March 17, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles L. Huisking & Co., Inc., New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on or about October 30, 1936, from the State of New York into the Territory of Puerto Rico, of a quantity of alleged almond oil that was adulterated and misbranded. The article was labeled in part: "Tower Brand * * * Aceite De Almendras, Commercial, * * * Chas. L. Huisking & Co. Inc., New York, N. Y."

The article was alleged to be adulterated under the provisions of the act relating to drugs in that it was sold under the name aceite de almendras, i. e., in English, oil of almond, which name has the same significance as names recognized in the United States Pharmacopoeia, i. e., "Expressed almond oil and oil of sweet almond, and it differed from the standard of strength, quality, and purity for expressed almond oil and oil of sweet almond as determined by the tests laid down in said pharmacopoeia official at the time of investigation and its own standard of strength, quality, or purity was not stated on the container. It was alleged to be misbranded under the provisions relating to drugs in that the statements on the can label, "Aceite de Almendras" and "Marca Torre, Significando La Mejor Garantia En Calidad Y Pureza Absoluta," which are translated into English as "Oil of Almond" and "Tower Brand signifies the best guaranty in quality and absolute purity," were false and misleading since the article was not oil of almond but consisted essentially of cottonseed oil flavored with benzaldehyde.

The article was alleged to be adulterated under the provisions of the act relating to food in that cottonseed oil flavored with benzaldehyde had been substituted in part for oil of almonds, which it purported to be. It was alleged to be misbranded under the provisions relating to food in that the statements, "Aceite de Almendras," "Marca Torre," and "Significando la Mejor Garantia En Calidad Y Pureza Absoluta," were false and misleading and tended to deceive and mislead the purchaser; and in that it was an imitation of oil of almond, that is, a substance consisting essentially of cottonseed oil flavored with benzaldehyde and was offered for sale under the name of another article, oil of almonds.

On March 22, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $100.

W. R. Gregg, *Acting Secretary of Agriculture.*

28735. Adulteration and misbranding of unguentum yellow oxide mercury, unguentum belladonna, phenacetin and salol tablets, and boric acid ointment. U. S. v. Reese Laboratories, Inc. Plea of guilty. Fine, $250. (F. & D. No. 40760. Sample Nos. 38378–C, 38384–C, 38389–C, 38393–C.)

This case involved unguentum yellow oxide mercury which contained less mercuric oxide than required by the United States Pharmacopoeia and less than declared on the label; unguentum belladonna which contained alkaloids of belladonna leaves in excess of the amount prescribed by the pharmacopoeia; phenacetin and salol tablets which contained phenyl salicylate in excess of the amount prescribed by the National Formulary and in excess of the amount declared on the label and which failed to bear on its label a proper declaration of phenacetin; and boric acid ointment which contained boric acid in excess of the amount prescribed by the pharmacopoeia.

On February 11, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Reese Laboratories, Inc., New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about February 26, April 21, and June 18, 1937, from the State of New York into the State of New Jersey, of quantities of the above-named drugs that were adulterated and misbranded. The articles were labeled variously: "Arelene Brand Unguentum Yellow Oxide Mercury [or "Unguentum Belladouna," "Tablets Phenacetin and Salol (N. F. VI)," or "Arelene Boric Acid Ointment"] * * * Reese Laboratories, Inc. New York, N. Y."

The unguentum yellow oxide mercury was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia but differed from the standard prescribed therein, since it contained less than 0.9 percent, namely, not more than 0.69 percent of mercuric oxide; whereas the pharmacopoeia provides that yellow mercuric oxide ointment shall contain not less than 0.9 percent of mercuric oxide, and the standard of strength, quality, and purity of the article was not declared on the container. It was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold in that it was represented to be unguentum yellow oxide mercury which conformed to the standard laid down in the United States Pharmacopoeia, 10th revision, and was represented to contain 1 percent of mercuric oxide; whereas it did not conform to the standard laid down in said pharmacopoeia and contained less than 1 percent of mercuric oxide. It was alleged to be misbranded in that the statement "Unguentum Yellow Oxide Mercury 1% U. S. P. X," borne on the label, was false and misleading.

The unguentum belladonna was alleged to be adulterated in that it was sold under a name recognized in the pharmacopoeia and differed from the standard prescribed therein, since it yielded more than 0.132 percent, namely, not less than 0.15 percent of the alkaloids of belladonna leaf; whereas the pharmacopoeia provides that belladonna ointment shall yield not more than 0.132 percent of the alkaloids of belladonna leaf, and the standard of strength, quality, and purity of the article was not declared on the container. It was alleged to be misbranded in that the statement "Unguentum Belladonna, U. S. P. XI," borne on the label, was false and misleading.

The phenacetin and salol tablets were alleged to be adulterated in that they were sold under a name recognized in the National Formulary but differed from the standard prescribed therein, since each of the tablets contained more than 110 percent, namely, not less than 484 percent of the labeled amount of phenyl salicylate [salol], equivalent to 2.42 grains per tablet; whereas the said formulary provides that phenacetin and salol tablets shall contain not more than 110 percent of the declared amount of phenyl salicylate; and the standard of strength, quality, and purity of the article was not declared on the container.

They were alleged to be misbranded in that the statement "Tablets Phenacetin and Salol (N. F. VI) * * * Salol ½ Gr.," borne on the label, was false and misleading since they did not conform to the standard laid down in the National Formulary and each of the tablets contained more than ½ grain, namely, not less than 2.42 grains of salol. It was alleged to be misbranded further in that it contained phenacetin, a derivative of acetanilid, and the label on the package failed to bear a statement that phenacetin is a derivative of acetanilid.

The boric acid ointment was alleged to be adulterated in that it was sold under a name recognized in the pharmacopoeia but differed from the standard prescribed therein, since it contained more than 11 percent, namely, not less than 13.08 percent of boric acid; whereas said pharmacopoeia provides that boric acid ointment shall contain not more than 11 percent of boric acid and the standard of strength, quality, and purity of the article was not declared on the container thereof. It was alleged to be misbranded in that the statement "Boric Acid Ointment U. S. P.," borne on the cartons and tubes, was false and misleading.

On March 14, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $250.

W. R. Gregg, *Acting Secretary of Agriculture.*

28736. Adulteration of solution of citrate of magnesia. U. S. v. Valdosta Drug Co. Plea of nolo contendere. Fine, $75. (F. & D. No. 39825. Sample Nos. 22749-C, 44111-C.)

This product differed from the standard established by the United States Pharmacopoeia because of deficiency in magnesium citrate and citric acid.

On December 6, 1937, the United States attorney for the Middle District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Valdosta Drug Co., a corporation, Valdosta, Ga., alleging shipment by said company in violation of the Food and Drugs Act on or about April 7 and 9, 1937, from the State of Georgia into the State of Florida of two lots of solution of citrate of magnesia which was adulterated. The article was labeled in part: "Valdosta Drug Co., Valdosta, Ga."

It was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein, since the two lots were found to contain in each 100 cubic centimeters an amount of magnesium citrate corresponding to not more than 0.92 gram and 0.57 gram, respectively, of magnesium oxide, and in each 10 cubic centimeters citric acid equivalent to not more than 20.7 cubic centimeters and 23 cubic centimeters, respectively, of half-normal hydrochloric acid, whereas the pharmacopoeia provides that solution of magnesium citrate shall contain in each 100 cubic centimeters an amount of magnesium citrate corresponding to not less than 1.6 grams of magnesium oxide, and in each 10 cubic centimeters of the solution citric acid equivalent to not less than 26 cubic centimeters of half-normal hydrochloric acid; and its own standard of strength, quality, and purity was not declared on the container.

On March 21, 1938, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of $75.

W. R. Gregg, *Acting Secretary of Agriculture.*

28737. Misbranding of Brown's Nosopen. U. S. v. 17 Packages of Brown's Nosopen. Default decree of condemnation and destruction. (F. & D. No. 41730. Sample No. 1721–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 18, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 packages of Brown's Nosopen at Dallas, Tex., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, from Lawton, Okla., by the Am-Bro Co., and charging misbranding in violation of the Food and Drugs Act as amended. Each package contained one bottle labeled "Treatment No. 1," and another labeled "Treatment No. 2."

Analyses showed that the Treatment No. 1 consisted essentially of water with small quantities of ephedrine sulphate and chlorobutanol; and that the Treatment No. 2 consisted essentially of mineral oil with small quantities of ephedrine and volatile oils, including eucalyptol and camphor.

The article was alleged to be misbranded in that statements appearing in a circular contained in the package falsely and fraudulently represented the curative and therapeutic effectiveness of the article for the relief of hay fever, asthma, nasal catarrh, and sinus headaches.

On March 26, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28738. Misbranding of Mentholated La Puris Kerchiefs. U. S. v. 5 Dozen, 18 Dozen, and 68⅓ Dozen Packages of Mentholated La Puris Kerchiefs. Default decrees of condemnation and destruction. (F. & D. Nos. 41722, 41814. Samples Nos. 8411–D, 14056–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 15 and 25, 1938, the United States attorneys for the District of Massachusetts and the Western District of Michigan, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 23 dozen Mentholated La Puris Kerchiefs at Boston, Mass., and 68⅓ dozen of the article at Grand Rapids, Mich., alleging that the article had been shipped in interstate commerce on October 15 and 22 and December 8, 1937, from New York, N. Y., by the Sterilek Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analyses of samples of the article showed that it consisted of a paper tissue impregnated with menthol.

The article was alleged to be misbranded in that the following statements regarding its curative and therapeutic effects were false and fraudulent: (Both lots) "For Hay Fever, Rose Fever, Sinus, Soothes Nasal Irritation or * * * Inflamed * * * Skin * * * Use as Protection When in Crowds"; (one lot) "For any nasal irritations Mentholated LaPuris Kerchiefs are ideal. They are so soothing to inflamed * * * skin. These Mentholated Kerchiefs are especially recommended for use in cases of: Rose Fever, Hay Fever."

On March 14 and April 7, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28739. Misbranding of Diatine. U. S. v. 1,350 Packages and 84 Packages of Diatine. Default decrees of condemnation and destruction. (F. & D. Nos. 41419, 41732. Sample Nos. 47571–C, 8356–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On January 17 and February 21, 1938, the United States attorneys for the Northern District of Ohio and the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 1,434 packages of Diatine at Cleveland, Ohio, and Evanston, Ill., alleging that the article had been shipped in interstate commerce on or about July 7 and September 9, 1937, from Milwaukee, Wis., by the Scheidemann Remedy Co, and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses of samples of the article showed that it consisted essentially of a coarsely ground plant material composed mainly of juniper wood, bark, needles, and berries and small quantities of uva ursi and senna leaves.

The article was alleged to be misbranded in that the statement borne on the package label, "Diatine is * * * a palatable, stimulating * * * beverage that promotes elimination and assists in balancing the body chemistry," meant to sufferers from diabetes that their bodies would regain the ability to convert sugar in the blood into the substances normally produced in healthy persons; further that the word "Diatine" constituted a device; that the statement and device were representations regarding the curative and therapeutic effects of the article, and were false and fraudulent since they meant to the purchaser that the article was a treatment for diabetes; that they had attained such meaning as a result of statements in a circular, entitled "Diatine," in which the article was represented to be effective in the treatment of those troubled with diabetes, albumen, uric acid, and kidney disorders, a supply of which circulars was received by the consignee from the consignor and distributed to customers and prospective customers.

On March 16 and April 26, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28740. Misbranding of Zomogo Oil. U. S. v. 16 Bottles of Zomogo Oil. Default decree of condemnation and destruction. (F. & D. No. 41580. Sample No. 2257–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 1, 1938, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 bottles of Zomogo Oil at Salem, Mo., alleging that the article had been shipped in interstate commerce on or about January 20, 1938, from Hot Springs, Ark., by L. Zomogo Hood, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article showed that it consisted essentially of a petroleum distillate (approximately 50 percent) and oils of plant origin such as cassia, clove, eucalyptus, and mustard oils.

The article was alleged to be misbranded in that the statement on the label, "Directions: Apply well over affected part. Read directions on circular carefully," and representations in an accompanying circular, regarding its effectiveness in the treatment of tuberculosis of the lungs and spine, pellagra, asthma, rheumatism of all kinds, neuritis, sciatica, arthritis, influenza, lumbago, Bright's disease, dropsy, typhoid fever, smallpox, measles, chickenpox, eczema, rash, diabetes, deafness, earache, catarrh, headache, cancer, pyorrhea, toothache, blood poison, dandruff, quinsy, diphtheria, sore throat, acute indigestion, gallstones, gall-bladder trouble, bite of black widow spider, lockjaw, kidney trouble, bloating, pneumonia, female trouble, coughs, spinal meningitis, bone abscess, nerve and heart trouble, blood poisoning, high blood pressure, convulsions, muric (sic) acid poisoning, carbuncles, and ovarian trouble, were false and fraudulent.

On March 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28741. Adulteration and misbranding of Espiritu Water. U. S. v. George C. Wooddell (Espiritu Water Co.). Pleas of nolo contendre. Fines, $10. (F. & D. Nos. 33814, 33990. Sample Nos. 39238–A, 47164–A, 14445–B.)

The labeling of this product bore false and fraudulent representations regarding its curative or therapeutic effects. Samples taken from one of the shipments were found to be polluted.

On July 2, 1936, the United States attorney for the Southern District of Florida, acting upon reports by the Secretary of Agriculture, filed in the district court two informations against George C. Wooddell, trading as the Espiritu Water Co., at Safety Harbor, Fla., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about August 7, 1933, from the State of Florida into the State of Georgia, of a quantity of Espiritu Water which was adulterated and misbranded; and on or about September 11, 1933,

and September 4, 1934, from the State of Florida into the State of Massachusetts of quantities of Espiritu Water which was misbranded. The article was labeled in part: "Espiritu Water Co., Safety Harbor, Fla."

Analyses of samples showed that it was a moderately mineralized water with sodium chloride as the predominating mineral constituent.

The product shipped August 7, 1933, into the State of Georgia was alleged to be adulterated under the provisions of the law applicable to food in that it consisted in whole and in part of a filthy and decomposed animal and vegetable substance.

All shipments were alleged to be misbranded under the provisions of the law applicable to drugs in that certain statements, designs, and devices regarding their curative or therapeutic effects, borne on the bottle labels of the shipment of August 7, 1933, falsely and fraudulently represented that it was effective as a treatment, remedy, and cure for all stomach disorders or irregularities; effective as a positive cure in many cases of eczema and other skin eruptions; effective as a treatment, remedy, and cure for Bright's disease, bladder troubles, diabetes, dropsy, high blood pressure, gout, neuritis, stomach and bowel troubles, rheumatism, eczema, and psoriasis; of beneficial influence in diseases of the stomach, liver, and kidneys and in rheumatism, neuritis, and kidney stones; and effective to restore youth; and those on the labels of the other shipments falsely and fraudulently represented that the article was effective as a treatment, remedy, and cure for kidney stones, neuritis, rheumatism, and other kidney irregularities; effective as a treatment, remedy, and cure for Bright's disease, bladder troubles, diabetes, dropsy, high blood pressure, gout, neuritis, stomach and bowel troubles, rheumatism, eczema, and psoriasis; that it was "of beneficial influence in diseases of the stomach, liver and kidneys, rheumatism, neuritis, and kidney stones;" and effective to restore youth.

On March 1, 1938, the defendant entered a plea of nolo contendere to each information and the court imposed fines in the total amount of $10.

W. R. Gregg, *Acting Secretary of Agriculture.*

28742. Adulteration and misbranding of morphine sulphate tablets, Calcigol with Iodine Tablets, Septomang Antiseptic Tablets, theobromine tablets; adulteration of Fowler's solution and Elixir Iron, Quinine and Strychnia; misbranding of Pancreatone Capsules. U. S. v. The Crescent-Kelvan Co., George T. Lambert, David Pereira, and George D. Lambert. Pleas of nolo contendere. Judgment of guilty. Fine, $850. (F. & D. No. 39441. Sample Nos. 7823–C, 15626–C, 15627–C, 15629–C, 16688–C, 16690–C, 16877–C, 16881–C, 27931–C.)

This case involved morphine sulphate tablets which contained less morphine sulphate than declared; Calcigol with Iodine Tablets which contained less iodine than declared; theobromine tablets which contained less theobromine than declared and also undeclared sodium salicylate; Septomang Antiseptic Tablets the labeling of which bore false and fraudulent curative and therapeutic claims and false and misleading antiseptic claims; Pancreatone Capsules the labeling of which bore false and fraudulent curative and therapeutic claims and other misrepresentations; Fowler's solution and Elixir Iron, Quinine and Strychnia which differed from the standard laid down in the United States Pharmacopoeia and the National Formulary, respectively, and which were not labeled to show their own standards.

On June 11, 1937, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Crescent-Kelvan Co., a Pennsylvania business trust, Philadelphia, Pa., and George T. Lambert, David Pereira, and George D. Lambert, officers of the trust, alleging shipment by the said defendants on or about June 4 and 12, August 21 and 30, and in or about the second week of September 1936, from the State of Pennsylvania into the States of New York, Maryland, and New Jersey of quantities of morphine sulphate tablets, Calcigol with Iodine Tablets, Septomang Antiseptic Tablets, and theobromine tablets each of which was adulterated and misbranded; quantities of Pancreatone Capsules which were misbranded; and quantities of Fowler's solution and Elixir Iron, Quinine and Strychnia which were adulterated. The articles were labeled in part: "The Crescent-Kelvan Co., Philadelphia, Pa."

Analyses showed that the Septomang Antiseptic Tablets consisted largely of zinc sulphate, potassium permanganate, sodium borate, volatile oils including oil of wintergreen, thymol, eucalyptol, and menthol, and that they were not effective as an antiseptic when used as directed; and that the Pancreatone

Capsules contained in addition to glandular matter, other substances including compounds of manganese, strychnine, arsenic, and gentian.

The morphine sulphate tablets were alleged to be adulterated in that a portion were represented to contain ¼ grain of morphine sulphate and the remainder were represented to contain ½ grain of morphine sulphate; whereas the former contained not more than 0.22 grain of morphine sulphate and the latter not more than ⅓ grain of morphine sulphate per tablet, and therefore the strength of the article fell below the professed standard and quality under which it was sold. The article was alleged to be misbranded in that the statements borne on the labels, "Tablet Triturates ¼ gr.-Morphine Sulphate" and "Tablets Morphine Sulphate ½ gr.," were false and misleading.

The Calcigol with Iodine Tablets were alleged to be adulterated in that it was represented on the label that each tablet contained 1/10 grain of iodine; whereas each tablet contained not more than 0.06 grain of iodine; and therefore the strength of the article fell below the professed standard and quality under which it was sold. The article was alleged to be misbranded in that the statement borne on the label, "Calcigol with Iodine * * * Iodine 1/10 gr.," was false and misleading.

The Septomang Antiseptic Tablets were alleged to be adulterated in that it was represented on the label that the article was effective as an antiseptic when used as directed, but was not effective as an antiseptic when used as directed, and therefore its strength fell below the professed standard and quality under which it was sold. The article was alleged to be misbranded in that the statements borne on the label, "Septo * * * Antiseptic Tablets * * * Dissolve two tablets in a quart of warm water * * * makes an excellent gargle where an antiseptic * * * is indicated," were false and misleading. It was alleged to be misbranded further in that statements borne on the label falsely and fraudulently represented it to be effective as a vaginal douche in leucorrhoea, gonorrhoea, vaginitis, ulceration, and all catarrhal conditions.

The theobromine tablets were alleged to be adulterated in that the label represented that each tablet contained 5 grains of theobromine, whereas each tablet contained not more than 2.94 grains of theobromine; in that each tablet also contained 1.94 grains of sodium salicylate, and that the presence in the article of the latter ingredient was not declared on the label; and therefore the strength of the article fell below the professed standard and quality under which it was sold. The article was alleged to be misbranded in that the statement borne on the label, "Tablets (5) Grains Theobromine," was false and misleading.

Fowler's solution was alleged to be adulterated in that the term "Fowler's solution" is a synonym for solution of potassium arsenite, a drug recognized in the United States Pharmacopoeia; in that the pharmacopoeia declares that a solution of potassium arsenite shall contain in each 100 cubic centimeters thereof the equivalent of not more than 1.050 grams of arsenic trioxide; that the article contained more than 1.050 grams of arsenic trioxide per 100 cubic centimeters, one lot containing not less than 1.642 grams and the other not less than 1.6315 grams of arsenic trioxide per 100 cubic centimeters; and that the article was sold under a name recognized in the pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down therein and its own standard was not stated on the container.

The elixir of iron, quinine, and strychnine was alleged to be adulterated in that elixir of iron, quinine, and strychnine is a drug that is recognized by that name in the National Formulary, but the formulary declares that the drug consist in part of an iron compound equivalent to not less than 5.6 grams of iron per 1,000 cubic centimeters of compounds of quinine and strychnine equivalent to not less than 6.68 grams of anhydrous quinine and strychnine per 1,000 cubic centimeters, and 23 to 26 percent of alcohol by volume; and that the article contained not more than 3.13 grams of iron per 1,000 cubic centimeters, not more than 4.5 grams of anhydrous quinine and strychnine per 1,000 cubic centimeters; and not more than 10.8 percent of alcohol by volume.

The Pancreatone Capsules were alleged to be misbranded in that the statement borne on the label, "Pancreatone," was false and misleading in that it represented to purchasers that the sole physiologically active ingredient of the article was pancreatin; whereas the article contained other physiologically active ingredients, namely, compounds of strychnine, arsenic, manganese, and gentian. It was alleged to be misbranded further in that statements on the

bottle label falsely and fraudulently represented that it was effective as a remedy and cure for diabetes mellitus and diseases generally of pancreatic origin.

On January 7, 1938, pleas of nolo contendere having been entered by the defendants, they were adjudged guilty and were sentenced to pay fines in the total amount of $850.

W. R. Gregg, *Acting Secretary of Agriculture.*

28743. Misbranding of Poreen Ointment, Nux and Iron Tablets, Four Star One Night Healing Salve, and Flu-Go Mutton Suet. U. S. v. Keystone Laboratories, Inc., and Joseph S. Menke. Pleas of guilty. Fines totaling $800. (F. & D. No. 39821. Sample Nos. 13595–C, 13599–C, 18689–C, 31493–C, 35272–C, 35274–C, 35275–C, 35397–C.)

These products were all misbranded because of false and fraudulent representations in the labeling regarding their curative and therapeutic effects; the Nux and Iron Tablets were misbranded further because they were labeled to indicate that they consisted of nux vomica and iron, whereas they contained other physiologically active ingredients.

On March 9, 1938, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Keystone Laboratories, Inc., and Joseph S. Menke, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on various dates between February 26 and April 26, 1937, from the State of Tennessee into the States of Louisiana, Arkansas, Ohio, and Missouri, of quantities of the above-named products which were misbranded. The Four Star One Night Healing Salve was labeled in part: "Four Star Laboratories, Memphis, Tenn." The remaining products were labeled: "Keystone Laboratories, Memphis, Tenn."

Analyses of the articles showed that the Poreen Ointment consisted essentially of red-colored, perfumed petrolatum, with a small amount of red mercuric oxide; that the Nux and Iron Tablets contained extracts of plant drugs including nux vomica, and compounds of iron, zinc, and phosphorus, and were coated with calcium carbonate and sugar; that the Four Star Salve consisted essentially of volatile oils, including menthol, eucalyptol, camphor, and methyl salicylate incorporated in a petrolatum base; and that the Flu-Go Mutton Suet consisted essentially of volatile oils including menthol, camphor, and methyl salicylate, and a small proportion of turpentine incorporated in a mutton-fat base.

The articles were alleged to be misbranded in that statements appearing in the labeling regarding their curative and therapeutic effects, falsely and fraudulently represented that they were effective: (Poreen Ointment) to remove imperfections, pimples, and skin blemishes and effective in the treatment of eczema, tetter, pimples, ringworms, and skin eruptions; (Nux and Iron Tablets) effective to restore manhood, to strengthen blood tissue and nerve forces, to restore lack of iron in the blood, to increase the blood supply, and to restore vim and vigor, effective as the most powerful invigorator and strengthening tonic and as a revitalizer, and effective in the treatment of anemia, rundown condition, nervousness, acute dyspepsia, and loss of appetite; (Four Star Salve) effective as a treatment for croup and respiratory disorders, sore throat, coughs, hay fever, catarrh, asthma, skin infections, pneumonia, acute bronchitis, and influenza; (Flu-Go Mutton Suet) effective as a treatment for flu, coughs, sore throats, stubborn cases of sore throat, burns, and aching feet, as a valuable aid in the treatment of influenza and respiratory disorders, as a valuable preliminary treatment for pneumonia and influenza, as an ideal treatment for coughs and sore throat, and as a relief for chest colds and sore throat.

The Nux and Iron Tablets were also alleged to be misbranded in that the statement borne on the labeling, "Nux and Iron Tablets," was false and misleading since it represented that the physiologically active ingredients of the article consisted of nux vomica and iron; whereas it contained other physiologically active ingredients, zinc phosphide, plant material, and strychnine.

On March 21, 1938, pleas of guilty having been entered by the defendants, the corporation was sentenced to pay a fine of $660, and the individual was sentenced to pay a fine of $140.

W. R. Gregg, *Acting Secretary of Agriculture.*

28744. Adulteration and misbranding of Dr. Hayssen's Supreme Goitre Tablets and misbranding of Dr. Hayssen's Supreme Goitre Ointment. U. S. v. Charles William Hayssen (The H. H. Hayssen Co.). Plea of nolo contendere. Judgment of guilty. Fine, $200. Payment suspended and defendant placed on probation for 12 months. (F. & D. No. 39499. Sample Nos. 21615–C, 21616–C.)

The labeling of these products bore false and fraudulent representations regarding their curative and therapeutic effects. The goitre tablets contained a smaller amount of potassium iodide than that declared.

On June 26, 1937, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles William Hayssen, trading as the H. H. Hayssen Co., at Mobile, Ala., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about January 13, 1937, from the State of Alabama into the State of Mississippi of quantities of goitre tablets and goitre ointment, of which the former was adulterated and misbranded and the latter was misbranded. The articles were labeled in part: "Mfg. by the Hayssen Laboratories"; or "Put up by the Hayssen Laboratories * * * Mobile, Ala."

Analyses showed that the tablets contained 0.163 grain of potassium iodide per tablet with inert ingredients such as sugar, starch, and talc; and that the ointment contained 8.5 percent of potassium iodide, with small quantities of turpentine and rose perfume in a petrolatum base.

The tablets were alleged to be adulterated in that their strength fell below the professed standard and quality under which they were sold, since the box label bore the statement "1 Grain Potassium Iodide"; whereas each tablet contained less than 1 grain of potassium iodide, namely, only 0.163 grain thereof and also contained inert ingredients, sugar, starch, and talc.

The tablets were alleged to be misbranded in that the statement "One Grain Potassium Iodide" was false and misleading. Both products were alleged to be misbranded in that certain statements in a circular regarding their curative or therapeutic effects, enclosed in the packages, falsely and fraudulently represented that goitre could be scientifically absorbed by their use; that they would produce a remedial and alleviative effect in the treatment of goitre; that they had cured both goitre (enlarged thyroid glands) and tonsillitis (diseased tonsils); that they were godsends to suffering humanity; that they could not be recommended too highly; that they would "take away" pains occasioned by gall-bladder trouble, and rheumatism, nervousness, and goitre; that they could cause absorption and removal of the cause of goitre and tonsillitis, to wit, the roots, germs, and poisons of these diseases "which otherwise remain in the system"; that they were remedial and alleviative in the treatment of "Exophthalmia, inward goitre, tonsillitis, tumors, wens, cysts, etc."; that they were safe medication for the last aforesaid ailments and disorders and had been used successfully and had been recommended highly by leading physicians in this country since 1886; and that their general use in the treatment of goitre and tonsillitis would avert development of those ailments into sinus, gall-bladder, rheumatism, cancer, tuberculosis, and various other troubles.

The tablets were alleged to be misbranded further in that the box label bore false and fraudulent representations that the article "Never Fails to Give Relief From Goitre, (Enlarged Thyroid Glands) Tonsillitis; tumors, wens, cysts, Exophthalmia (Inward Goitre)"; and that it was "A Wonderful Blood Purifier and Builder and an Excellent Nerve Sedative."

On March 17, 1938, a plea of nolo contendere was entered by the defendant and he was found guilty and sentenced to pay a fine of $200, payment of which was suspended and he was placed on probation for 12 months.

W. R. Gregg, *Acting Secretary of Agriculture.*

28745. Adulteration and misbranding of rubber prophylactics. U. S. v. 36 Gross, 20½ Gross, and 43½ Gross of Rubber Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 41600, 42025. Sample Nos. 1089–D, 24928–D, 24929–D.)

Examination of samples of these prophylactics showed that some of them were defective in that they contained holes.

On or about February 4 and March 24, 1938, the United States attorneys for the Western District of Pennsylvania and the Eastern District of South Carolina, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 36 gross of rubber prophylactics at Pittsburgh, Pa., and 64 gross of the product at Columbia,

S. C., alleging that the article had been shipped in interstate commerce on or about September 17, 1937, and February 5, 1938, from Atlanta, Ga., by W. H. Reed & Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part variously: "Master Pak"; "Three Flyers"; or "Nu-Pak."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the statements, (on all brands) "For the Prevention of Disease" and (Master Pak) "Guaranteed for 5 years," borne on the labels, were false and misleading.

On March 31 and April 16, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28746. Misbranding of Dr. Sharpsteen's Vegetable Hindoo Oil, Dr. Sharpsteen's Vegetable Tablets, and Dr. Sharpsteen's Hindoo Salve. U. S. v. Verne Sharpsteen (Drs. H. & V. Sharpsteen). Plea of guilty. Fine, $500. (F. & D. No. 39799. Sample Nos. 14650–C, 14651–C, 14652–C.)

These products were misbranded because of false and fraudulent curative and therapeutic claims on the label. The Hindoo Oil was misbranded further because of the false and misleading implication that it had been examined and approved by a Government agency and that it was of Hindu origin, and the Vegetable Tablets were misbranded further because of the false and misleading implication that they had been examined and approved by a Government agency and that they consisted of substances used as foods.

On November 30, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Verne Sharpsteen, trading as Drs. H. & V. Sharpsteen, at Marshall, Mich., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about January 26, and February 27, 1937, from the State of Michigan into the State of Ohio of quantities of the hereinafter-described drug preparations which were misbranded. The articles were labeled in part: "Drs. H. & V. Sharpsteen, Marshall, Michigan."

Analysis of the Hindoo Oil showed that it consisted essentially of chloroform (15 percent by volume), saponifiable oils, and volatile oils including oil of sassafras, oil of cloves, menthol, and camphoraceous material. The vegetable tablets were of four kinds. Analysis showed that: (1) The brown-coated ones consisted essentially of ferrous carbonate, potassium and sodium sulphate, calcium carbonate, and plant drugs including a strychnine-bearing drug and a laxative plant drug; (2) the white-coated, of magnesium carbonate, calcium carbonate, and plant drugs including a strychnine-bearing drug and a laxative plant drug; (3) the red-coated, of ferrous, magnesium, and calcium carbonates and plant drugs including quinine and a laxative plant drug; and (4) the brown uncoated ones, of calcium carbonate and plant durgs including a laxative plant drug. Analysis of the Hindoo Salve showed that it consisted essentially of small quantities of chloroform and volatile oils, including oil of sassafras and oil of cloves, incorporated in a fatty base.

All the articles were alleged to be misbranded in that certain statements in the labeling, regarding their therapeutic and curative effects, falsely and fraudulently represented: In the case of the Hindoo Oil, that it was effective to alleviate the pain of dyspepsia, appendicitis, colic, stitch or lame back, gallstones, dropsy, rheumatism, la grippe, coughs, burns, all forms of inflammation, stomach worms, pinworms, fistula, piles, nasal catarrh, consumption, salt rheum, eczema, and the collection of gas in the stomach and bowels with pressure around the body; to enliven the skin and contraction of the flesh and to effect a quick change in moisture, warmth, and life to the soles of the feet and body; to produce quick action of the glands, especially the urinary glands; to soothe and alleviate (a) cramps at any place in the human body where they are not easily controlled and (b) pain in all portions of the human system, even to the soles of the feet; to alleviate dryness of the skin of the feet when due to poor blood circulation; to stimulate a glowing warmth in a condition of spleen chilliness after retiring at night; to cure, by removing, tapeworms, stomach worms, and pinworms; to soothe the heart, bronchial tickling, bowels, headache of the forehead and crown of the head; to alleviate darting pains, neuralgia of the eye, ear, face, teeth, gatherings in the head, la grippe, coughs, weak lungs, and whispery voice; to relieve pneumonia, rheumatism, toothache, ulcerated

teeth, and sore or "long-feeling" teeth; to soothe and alleviate appendicitis and dyspepsia; to equalize circulation of the blood and bodily warmth; to cure, by removing, tapeworms, stomach worms; to penetrate to the bone when well rubbed; to relieve instantly the most excruciating pains from influenza and la grippe, attacks of the neck, crown of the head, eye ache, earache, cheek ache; to prevent the forming of ulcers at the juncture of the nose and ear duct; to relieve gathering in the head, rheumatism, neuralgia, headache, toothache, ulcers at the roots of the teeth; to relieve pains of the neck, eyes, ear, temple, teeth, ulcers in head or ear duct; to absorb the gaseous collections and reduce the inflammation in appendicitis, colic, cholera morbus, bloating after dinner, and damming of the bowels; to "conquer, when used in unison" with other medicines manufactured by the defendant, bad kidneys, backache, stitch in the back, lame hips, knees, feet, and toes, swollen hands and feet, gallstones, gravel in the bladder, diabetes, Bright's disease, dropsy of chest, heart, and bowels; to accomplish the purposes of liniments, balms, and ointments when applied in cases of pneumonia, croup, quinsy, pleurisy, backache, stitch, and even most cases involving physical pains; to cause skin poisons, sores, swellings, pimples, blotches, and blackheads to disappear when used in conjunction with the use of the defendant's Vegetable Complexion Soap, and also to cause roughness of the skin, apparently growths, oozing out on the scalp or any portion of the body, to disappear; and to effect quick action of the glands, and especially of the urinary glands, when used in bathing the neck, the navel, the knees, the ankles, and the feet; to alleviate the pains of severe cramping and bloating of the stomach and bowels. In the case of the Vegetable Tablets, that they were effective to give quick relief when administered in the treatment of stomach, liver, spleen, and blood diseases, swollen tonsils, tonsillitis, catarrh, bronchitis, asthma, pneumonia, weak, palpating heart; to cure the worst coughs and also the worst cases of dyspepsia; to be alleviative of muscular, sciatic, and inflammatory rheumatism; to afford relief when used in the treatment of bloating of the stomach and bowels, and of disorders and diseases of the spleen, kidneys, and liver; to "afford" food to the blood and to cleanse the glands; to relieve indigestion, dyspepsia, nervousness, rheumatism, heart palpitation or skipping, spleen and liver sickness, kidney troubles, eczema, erysipelas, gallstone of the liver, gravel from the bladder, la grippe, colds which affect the eye, ear, teeth, face, neck, bloating after eating, piles, sicknesses of the spleen, liver, and lungs; effective to relieve phlegm "raising" in one day; and (in the case of the article contained in carton no. 4), to cure jaundiced complexion; to afford comfort to persons afflicted with organic, glandular, and bodily sicknesses; to produce strong, natural secretions of the spleen, "pancreat conductions," liver, heart and stomach; to activate strongly the digestive and circulatory systems and thereby so affect the surface or pores of the skin as to afford a clear, fresh countenance to consumers of the article; to alleviate the discouragement of persons who have become overanxious for the quietness of their overtaxed nervous system. In the case of the Hindoo Salve that it was effective to afford instant relief and to effect a quick cure when used in the treatment of pneumonia, lung fever, membranous or common croup, quinsy, caked or agued female breasts, sore mammary gland nipples, blind piles, external piles, and all ailments which any salve could affect curatively and therapeutically; to instantly penetrate the skin and flesh to the seat of any disorder or disease that could be medicated through the use of any salve; to quickly and thoroughly cleanse and heal all painful inflammations, and all forms of sores or ulcers, internally or externally; to instantly remove pain due to a granular condition of the eye, and to prevent a spreading of such condition; to rid the throat and mouth of ulcers; to cure inflammation of the stomach, lungs, kidneys, spleen, liver, appendix, and bladder; to prevent apoplexy and paralysis; to prevent the blistering that would otherwise follow a burning or scalding of the skin or flesh; to remove the pain due to burns and scalds and to form new skin over burned or scalded surfaces of the body; to quickly reduce blind or external piles; to cure frosted flesh or frozen feet; to alleviate the condition due to corns or ingrowing toe nails, blisters, or eczema.

The Hindoo Oil was alleged to be misbranded further in that the statement "Vegetable Hindoo Oil," borne on the label, was false and misleading in that it represented that the article had been made pursuant to a formula originating in India. It was alleged to be misbranded further in that the statements, "Drs.

H. & V. Sharpsteen's Registered Guaranty Complies with the Food and Drugs Act of June 30, 1906, serial No. 7923," on the bottle label and similar statements on the cartons and in a circular, were false and misleading in that they implied that a Government agency had ascertained and determined, after an investigation thereof, that the article was in compliance with the provisions of the Food and Drugs Act; whereas such was not the fact. It was alleged to be misbranded further in that the statement on the label, "1 oz. chloroform to 14 oz. of oils," was false and misleading since it implied that only 6.6 percent by volume of the article consisted of chloroform; whereas there was present in the article 15 percent by volume of chloroform.

The Vegetable Tablets were alleged to be misbranded further in that the statements, "We, the undersigned, do hereby guarantee that the articles of Foods or Drugs manufactured, packed or sold by us, Dr. Sharpsteen's Family Medicines, are not adulterated or misbranded within the meaning of the Pure Food and Drug Act of June 30, 1906. Serial No. 7923," borne on the large cartons, and similar statements borne on the small cartons and in a circular, were false and misleading in that they implied that a Government agency had ascertained and determined after investigation and examination of the article, that it was in compliance with the Food and Drugs Act; whereas such was not the case. It was alleged to be misbranded further in that the statement, "Vegetable Tablets Composed of Fruits, Roots, Herbs and Seeds That are a Blood Food and Gland Cleanser," was false and misleading in that it represented that the article was composed of substances ordinarily used for human food; whereas the article contained substances that are not used as human food.

On December 9, 1937, the defendant entered a plea of guilty and the court imposed a fine of $500.

W. R. Gregg, *Acting Secretary of Agriculture.*

28747. Adulteration and misbranding of hydrogen peroxide. U. S. v. 452 Bottles of Hydrogen Peroxide. Default decree of condemnation and destruction. (F. & D. No. 41738. Sample No. 1198–D.)

This product fell below its declared strength of 3 percent hydrogen peroxide, the samples examined having averaged approximately 1.67 percent thereof.

On February 17, 1938, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 452 bottles of hydrogen peroxide at Youngstown, Ohio, alleging that the article had been shipped in interstate commerce on or about October 28, 1937, from Pittsburgh, Pa., by the Pennsylvania Drug Products Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Hydrogen Peroxide * * * 3% H_2O_2 * * * Manufactured by Exserco Products, Pittsburgh, Pa."

It was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, namely, "3% H_2O_2," since it contained less than 3 percent of hydrogen peroxide.

The article was alleged to be misbranded in that the statement on the label, "3% H_2O_2," was false and misleading and in that another statement on the label, "Hydrogen Peroxide," represented that the article was a solution of hydrogen peroxide, a drug recognized in the United States Pharmacopoeia containing not less than 2.5 grams of hydrogen peroxide per 100 cubic centimeters; whereas it was not such a preparation.

On April 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28748. Misbranding of Kroup Monia Salve, Kroup Monia Cough Syrup, Red Oil Liniment, and Aspirin. U. S. v. 27 Bottles of Kroup Monia Salve, et al. Decree of condemnation and destruction. (F. & D. Nos. 39334 to 39337, incl. Sample Nos. 34331–C, 34516–C, 34532–C, 34533–C.)

The cough syrup contained less chloroform than declared on the label; and the labeling of the remaining products bore false and fraudulent curative and therapeutic claims.

On April 26, 1937, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 27 bottles of salve, 139 bottles of cough syrup, 73 bottles of liniment, and 1,788 boxes of aspirin at Pensacola, Fla., alleging that the articles had been shipped in interstate commerce from Bessemer, Ala., in part on or about February 13 and 19, 1937, by W. D. Taylor & Co., Inc., and in part on or about February 17, 1937, by the T-Lax Products Co., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the salve consisted of petrolatum and small quantities of eucalyptol, menthol, thymol, camphor, and oil of turpentine; that the liniment consisted of kerosene, capsicum, and volatile oils including oil of turpentine and oil of sassafras; that the cough syrup contained 1.8 minims of chloroform per fluid ounce; and that the aspirin was as represented.

The Kroup Monia Cough Syrup was alleged to be misbranded in that the statement "4 Minims Chloroform to Ounce" was false and misleading since analysis showed that the article contained only 1.8 minims of chloroform per fluid ounce.

The remaining products were alleged to be misbranded in that the following statements regarding their therapeutic and curative effects were false and fraudulent: (Kroup Monia Penetrating Salve) "Croup Monia * * * the new and most excellent method of administering medicine by absorption and inhalation. It is a combination of Penetrating, Healing, * * * Oils, which are absorbed through the pores of the skin, relieving inflammation and congestion, and when inhaled as a vapor it reaches directly the parts affected. * * * For Croup, * * * For Pneumonia, rub well over the chest, back between the shoulder blades and the side or sides that pain, * * * For Coughs, * * * and Bronchial troubles use as for Croup. For Catarrh * * * For Piles, Burns, Inflamed Surfaces"; (Red Oil Liniment) "Excellent * * * For The Treatment Of Painful Affections Of The Nerve, Bone And Muscular System * * * Stiff Joints, muscular Rheumatism, Lumbago, Stiff Neck, Neuralgia, Swellings, * * * cramps in the stomach * * * Effective * * * In the Treatment Of Painful Affections Of The Nerve, Bone And Muscular System * * * helpful in the relief of * * * Stiffness * * * of Muscles, * * * Stiff Neck * * * and Swellings. For stomach cramps"; (aspirin) "For the Relief of * * * Croup, Lumbago, Flu, Etc."

On March 1, 1938, W. D. Taylor & Co. and T-Lax Products Co., having appeared as claimants admitting the allegations of the libel and consenting to the entry of a decree, but subsequently having withdrawn their claim, judgment of condemnation was entered and the products were ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28749. Adulteration and misbranding of ether for anesthesia. U. S. v. 80 Cans of Ether for Anesthesia. Default decree of condemnation and destruction. (F. & D. No. 41676. Sample Nos. 8257–D, 8258–D.)

This product differed from the standard laid down in the United States Pharmacopoeia since samples examined were found to contain peroxide and aldehyde, and its own standard was not declared.

On February 25, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 one-half pound cans of ether for anesthesia at Gary, Ind., alleging that the article had been shipped in interstate commerce on or about November 30, 1937, from St. Louis, Mo., by Mallinckrodt Chemical Works, of St. Louis, Mo., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia but differed from the standard of strength, quality, and purity, as determined by the test laid down in the said pharmacopoeia, and its true standard of strength, quality, or purity was not stated on the container.

Misbranding was alleged in that the statement borne on the label, "Ether for Anesthesia," was false and misleading since the article contained other ingredients.

On April 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

28750. Adulteration and misbranding of Theradophilus. U. S. v. 12 Bottles of Theradophilus. Default decree of condemnation and destruction. (F. & D. No. 39941. Sample No. 36397–C.)

This product contained per cubic centimeter approximately one-fourth the number of viable organisms declared on the label. The labeling also bore false and fraudulent curative and therapeutic claims.

On July 2, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 bottles of Theradophilus at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about June 18, 1937, from Pasadena, Calif., by Therapy, Ltd., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Bacteriological examination of the article showed that it contained not more than 440,000,000 viable organisms per cubic centimeter.

The article was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, namely, bacterial count 1,750,000,000 per cubic centimeter, since it contained a much smaller amount.

The article was alleged to be misbranded in that the statement on the label, "bacterial count 1,750,000,000 per cc," was false and misleading.

Further misbranding was alleged in that statements appearing in a circular contained in the package, falsely and fraudulently represented the curative and therapeutic effect of the article in the treatment of sufferers from low-grade infections due to putrefactive germs that had come into the intestines, and in the treatment of chronic constipation and auto-intoxication, "which are the direct results of this condition and which in turn may bring on colitis, dysentery, excessive gas, hyperacidity and in some cases may even be responsible for stomach ulcers, kidney ailments and rheumatism."

On March 26, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

W. R. Gregg, *Acting Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 28676–28750

[1] Contains opinions of the court.

[1] Contains opinions of the court.

[2] Prosecution contested.

U. S. GOVERNMENT PRINTING OFFICE: 1938

FOOD AND DRUG ADMINISTRATION

United States Department of Agriculture

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28751–28975

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 16, 1938]

28751. Adulteration and misbranding of canned corn. U. S. v. 33 Cases of Canned Field Corn (and one other seizure action against the same product). Decrees of condemnation. Portion of product released under bond for proper labeling; remainder destroyed. (F. & D. Nos. 41384, 41385. Sample Nos. 60741–C, 60849–C.)

These cases involved canned field corn which had been substituted for canned sweet corn. The quantity of the contents was not declared.

On January 13, 1938, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 33 cases of canned field corn at Pueblo, Colo., and 172 cases and 458 cans of field corn at Akron, Colo., shipped by the Old Grimes Canning Co., alleging that the article had been shipped in interstate commerce on or about September 4, 1937, from Grimes, Iowa, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The cans were unlabeled.

The article was alleged to be adulterated in that field corn had been substituted wholly or in part for sweet corn, which it purported to be.

It was alleged to be misbranded in that it was an imitation of canned corn, which is sweet corn, and it was not labeled to show that it was not sweet corn; and in that it was sold under the distinctive name of another article, namely, canned corn, which it purported to be, namely, sweet corn. It was alleged to be misbranded further in that it was food in package form and the quantity of the contents of the package was not plainly and conspicuously marked on the outside of the package.

On March 1, 1938, Wash Bros., Inc., Akron, Colo., having appeared as claimant for the goods seized at Akron, Colo., and having filed answer admitting the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be correctly labeled under supervision of this Department. On the same date no claim having been entered for the lot seized at Pueblo, Colo., it was condemned and ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28752. Misbranding of canned tomatoes. U. S. v. 383 Cases of Canned Tomatoes (and one other seizure action). Consent decrees of condemnation. Product ordered released under bond for relabeling. (F. & D. Nos. 40955, 41137. Sample Nos. 42467–C, 42495–C.)

This product was substandard since the tomatoes did not consist of whole or large pieces, and in one lot it contained excessive peel; and it was not labeled to indicate that it was substandard.

On November 30 and December 16, 1937, the United States attorney for the Western District of Texas, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 383 cases of canned tomatoes at Hamilton, Tex., and 570 cases of canned tomatoes at Gatesville, Tex., alleging that the article had been shipped in interstate commerce on or about October 4, 1937, by Putman Canning Co.,

from Avoca, Ark., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Putman Brand Hand Packed Tomatoes * * * Putman Canning Co., Avoca, Ark."

It was alleged to be misbranded in that it was canned food, and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because the tomatoes did not consist of whole or large pieces, and because a portion contained excess peel, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 1, 1938, the Putman Canning Co., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28753. Adulteration of candy. U. S. v. 7 Boxes of Candy (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 41441, 41444, 41481, 41483. Sample Nos. 1585–D, 2011–D, 2449–D, 8997–D.)

Samples of this product were found to contain insect fragments, excreta, rodent hairs, and miscellaneous foreign substances.

On January 17 and January 21, 1938, four United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 71 boxes of candy in various lots at Chicago, Ill., Coatesville, Pa., Omaha, Nebr., and Marion, Ohio, alleging that the article had been shipped in interstate commerce by the Queen Anne Candy Co., from Hammond, Ind., between the dates of December 17, 1937, and January 5, 1938, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Candy Co. * * * Hammond, Ind."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 18 and 28, and March 2 and 18, 1938, the owner of the lot seized at Omaha, Nebr., having consented to its destruction and no one having appeared in the remaining cases, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28754. Misbranding of canned cherries. U. S. v. 16 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 41645. Sample No. 457–D.)

This product was substandard because the cherries were packed in water, and it was not labeled to indicate that it was substandard. It was also short weight.

On February 8, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 cases of canned cherries at Lewiston, Idaho, alleging that the article had been shipped in interstate commerce on or about October 4, 1937, from Veradale, Wash., by the Spokane Valley Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Spokane Valley Brand Sour Pitted Cherries Net Contents 7 Lbs. 8 Oz. Spokane Valley Canning Co., Veradale, Wash."

The article was alleged to be misbranded in that the statement "Net Contents 7 Lbs. 8 Oz." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct; and in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the cherries were packed in water and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28755. Misbranding of canned tomatoes. U. S. v. 49 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 41646. Sample No. 794–D.)

This product was substandard because it was not normally colored and was not labeled to indicate that it was substandard.

On February 12, 1938, the United States attorney for the Western District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 cases of canned tomatoes at Greer, S. C., alleging that the article had been shipped in interstate commerce on or about January 10, 1938, from Dandridge, Tenn., by Bush Bros. & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Bush Bros. & Co., Canners and Distributors, Dandridge, Tenn."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it was not normally colored and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard. It was alleged to be misbranded further in that the statement on the cans, "Bush's Best Tomatoes * * * Extra Quality Canned Foods," was false and misleading and tended to deceive and mislead the purchaser.

On February 28, 1938, the claimants having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

M. L. Wilson, *Acting Secretary of Agriculture.*

28756. Adulteration of walnut meats. U. S. v. 168 Bags and 7 Bags of Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 41480. Sample No. 8995–D.)

This product was in whole or in part rancid and insect-infested.

On January 28, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 175 5- and 10-cent bags of walnut meats at Hammond, Ind., alleging that the article had been shipped by the Queen Anne Candy Co. from Hammond, Ind., to Athens, Ohio, that it had been returned by the consignee, Charles D. Bill, on or about December 29, 1937, and that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Quality Nut Meats * * * Queen Anne Products Corp., Hammond, Ind."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 8, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28757. Misbranding of canned peas. U. S. v. 191 Cases of Canned Peas. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41335. Sample Nos. 66224–C, 66229–C.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 5, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 191 cases of canned peas at Mountain Lake Park, Md., in possession of the Mount Airy Canning Co., alleging that the article had been shipped in interstate commerce on or about November 19, 1937, by the Buxton & Landstreet Co. from Thomas, W. Va., and charging misbranding in violation of the Food and Drugs Act. This shipment consisted of goods formerly shipped by the Mount Airy Canning Co. from Mountain Lake Park, Md., and returned to that firm. The article was labeled in part: "USB4 Brand Early June Peas * * * Burton Proctor & Son Distributors Preston, Md."

The libel alleged that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 3, 1938, the claimant having appeared and having filed an answer, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28758. Adulteration of potatoes. U. S. 400 Sacks of Potatoes. Consent decree of condemnation. Property ordered released under bond conditioned that unfit portion be destroyed or denatured. (F. & D. No. 41576. Sample No. 7716–D.)

These potatoes were seriously damaged by net necrosis.

On January 31, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 22, 1938, by Benjamin Balish Co., Inc., from Houlton, Maine, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Packed By Benjamin Balish Co. Inc. Houlton, Me."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 15, 1938, Benjamin Balish Co. Inc., having appeared and having admitted the allegations of the libel and consented, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the good potatoes be separated from the bad under the supervision of this Department and that the bad be destroyed or denatured.

M. L. Wilson, *Acting Secretary of Agriculture.*

28759. Adulteration of dried pears. U. S. v. 34 Boxes of Dried Pears. Default decree of condemnation and destruction. (F. & D. No. 41406. Sample No. 60832–C.)

This product contained evidence of insect infestation and other filth.

On January 13, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 boxes of dried pears at Denver, Colo., consigned by the California Packing Corporation, alleging that the article had been shipped in interstate commerce on or about July 23, 1937, from San Jose, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Goody Goody Brand Fancy Northern Pears, Packed by California Packing Corporation, Main Office San Francisco, Calif."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 1, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28760. Adulteration and misbranding of egg noodles. U. S. v. 285 Cases of Egg Noodles. Consent decree of condemnation and destruction. (F. & D. Nos. 41412 to 41416, incl. Sample Nos. 57168–C to 57172–C, incl.)

Certain samples of this product were found to be insect-infested, some to contain added coloring, and others to be short of the declared weight.

On January 13, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 285 cases of egg noodles at New York, N. Y., alleging that the article had been shipped in interstate commerce by the Chicago Macaroni Co. from Chicago, Ill., on or about October 1, 13, and 23 and November 30, 1937, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Retail packages) "Cyrilla Brand Net Wt. 1 Lb. [or "12 oz." or "8 oz."] Pure Egg Noodles Manufactured By Chicago Macaroni Co., Chicago, Ill."

The article in certain lots was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance and in others in that it was mixed and colored in a manner whereby inferiority was concealed.

A portion was alleged to be misbranded in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to a product that was colored in a manner whereby its

inferiority was concealed. The lots contained in 12-ounce packages were alleged to be misbranded because they were short weight.

On March 9, 1938, the Chicago Macaroni Co., Inc., having appeared and admitted that the product was worm-infested and unfit for human consumption, but having denied that it was colored or short weight, and having consented to its destruction because it was wormy and unfit for human consumption, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28761. Adulteration of nut meats. U. S. v. 100 Pounds of Nut Meats. Default decree of condemnation and destruction. (F. & D. No. 41442. Sample No. 8991–D.)

Samples of this product were decomposed, rancid, and insect-infested.

On January 20, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 pounds of nut meats at Hammond, Ind., alleging that the article had been shipped by the Queen Anne Candy Co. from Hammond, Ind., to Joliet, Ill., and that it had been returned on December 29, 1937, by the consignee, the Honest John Corporation, Joliet, Ill., to the Queen Anne Candy Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Quality Nut Meats."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 8, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28762. Misbranding of canned peas. U. S. v. 25 Cases of Early June Peas (and 3 other seizure actions). Default decrees of condemnation. Portions ordered delivered to charitable organizations. Remainder destroyed. (F. & D. Nos. 41471, 41667, 41681, 41772. Sample Nos. 7588–D, 7614–D, 7713–D, 7720–D.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 20 and February 10, 11, and 18, 1938, the United States attorneys for the Southern and Eastern Districts of New York and the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 25 cases of canned peas at New Rochelle, N. Y., 26 cases at Brooklyn, N. Y., 70 cases at Yonkers, N. Y., and 40 cases at Hartford, Conn., alleging that the article had been shipped in interstate commerce between the dates of August 23, 1937, and January 4, 1938, by Burgoon & Yingling from Gettysburg, Pa., and charging misbranding in violation of the Food and Drugs Act. Portions of the article were labeled: "B & Y Brand [or "National Park Brand"] Early June Peas * * * Packed by Burgoon & Yingling Gettysburg, Pa." The remainder was labeled: "Daintee Brand * * * I. Dickman & Sons Brooklyn, N. Y. Distributors."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 8, March 11, April 23, and May 11, 1938, no claimant having appeared, judgments of condemnation were entered. The lot seized at Brooklyn, N. Y., was ordered destroyed, and the remaining lots were ordered delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

28763. Adulteration of apples. U. S. v. 1 Carload of Apples. Consent decree of condemnation. Product released under bond for cleaning and removing spray residue. (F. & D. No. 41350. Sample No. 49472–C.)

This product bore excess spray residue.

On October 21, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of apples at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or

about October 15, 1937, by Harold Shlens from Traverse City, Mich., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, namely, arsenic and lead, which might have rendered it harmful to health.

On October 26, 1937, R. H. Dietz & Co., Chicago, Ill., having appeared as claimant and consented, judgment of condemnation and forfeiture was entered, and the property was ordered released to claimant under bond for cleaning and removing of the spray residue under supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28764. Adulteration of walnut meats. U. S. v. 1 Box, 3 Boxes, 10 Boxes, and 14 Boxes of Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 41336. Sample Nos. 57726–C, 57727–C, 57728–C, 57729–C.)

This product was in whole or in part wormy, rancid, and decomposed.

On January 5, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 boxes of walnut meats at Jersey City, N. J., alleging that the article had been shipped on or about December 8, 1937, in interstate commerce by Abraham Feld (American Food Exchange) from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 26, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28765. Misbranding of canned tomatoes. U. S. v. 260 Cases of Canned Tomatoes. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41345. Sample No. 36792–C.)

This product was substandard because the fruit was not normally colored, and it was not labeled to indicate that it was substandard.

On January 6, 1938, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 260 cases of canned tomatoes at Rockholds, Ky., consigned about September 9, 1937, alleging that the article had been shipped in interstate commerce by Lewis Canning Co. from Ewing, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ritchie's Favorite Brand Tomatoes * * * Packed by A. B. Ritchie Canning Co., New Tazewell, Tenn."

It was alleged to be misbranded in that it was canned food, and it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such food in that it was not normally colored, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 15, 1938, Mark Lewis, Tazewell, Tenn., having appeared as claimant, judgment of condemnation and forfeiture was entered. It was ordered that the property be released to the claimant under bond conditioned that it be relabeled under supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28766. Misbranding of canned peas. U. S. v. 251 Cases and 144 Cases of Canned Peas. Portion of product released under bond for relabeling; remainder ordered destroyed. (F. & D. Nos. 40343, 40844. Sample Nos. 48150–C, 57881–C.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On or about September 30 and November 20, 1937, the United States attorney for the Northern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 251 cases of canned peas at Terra Alta, W. Va., and 144 cases of canned peas at Grafton, W. Va., alleging that the article had been shipped in interstate commerce on or about August 25 and September 27, 1937, by the Mount Airy Canning Co. from Mountain Lake Park, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Macco Brand Early June Peas * * * Distributed By The Mount Airy Canning Co., Mount Airy, Md."

The article was alleged to be misbranded in that it fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food since there was present an excessive number of mature peas, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 1, 1937, the Mount Airy Canning Co. having entered an appearance and petitioned release of the lot seized at Terra Alta, W. Va., and having executed a bond conditioned that the goods be disposed of only in compliance with the law, a decree was entered ordering that the said lot be released for relabeling. On December 31, 1937, no claimant having appeared for the other lot, it was adjudged misbranded and ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28767. Misbranding of canned cherries. U. S. v. 77 Cases of Cherries. Product released under bond for relabeling. (F. & D. No. 41666. Sample No. 9512–D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On February 10, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 77 cases of canned cherries at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about August 16, 1937, by Westfield Planters Cooperative Fruit Products, Inc., from Westfield, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Westfield Maid Brand * * * Packed by Westfield Planters Cooperative Fruit Products, Inc. Westfield * * * New York."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since there was present more than one cherry pit per 20 ounces of net contents, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 3, 1938, the Westfield Planters Cooperative Fruit Products, Inc., having petitioned for release of the product under bond for relabeling and having in the petition admitted the allegations of the libel and consented to the entry of a decree, it was ordered by the court that the product be released under bond for reshipment to the cannery for relabeling.

M. L. Wilson, *Acting Secretary of Agriculture.*

28768. Misbranding of canned tomatoes. U. S. v. 532 Dozen Cans of Tomatoes. Decree of condemnation and forfeiture. Property released to claimant under bond for relabeling. (F. & D. No. 41291. Sample No. 36794–C.)

This product was not normally colored, and was not labeled to indicate that it was substandard.

On December 29, 1937, the United States attorney for the Eastern District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 532 dozen cans of tomatoes at Corbin, Ky., alleging that the article had been shipped (on or about December 11, 1937) in interstate commerce, by Hodges Canning Co. from Tazewell, Tenn., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Hillcrest Best Brand Tomatoes * * * Packed by Hodges Canning Co., Tazewell, Tenn."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture in that it was not normally colored, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that it fell below such standard.

On February 11, 1938, W. J. Breeding, Tazewell, Tenn., having appeared as claimant, judgment of condemnation and forfeiture was entered, and the property was ordered released to the claimant under bond conditioned that it be relabeled under supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28769. Adulteration of candy. U. S. v. 24 Boxes of Candy. Decree ordering condemnation and disposition as provided by law. (F. & D. No. 40986. Sample No. 50529–C.)

This product was insect-infected.

On or about November 30, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 boxes of candy at Biloxi, Miss., alleging that the article had been shipped in interstate commerce on or about September 30 and October 2, 1937, by McGraw Candy Co. from Mobile, Ala., and charging adulteration in violation of the Food and Drugs Act. The product was labeled in part: "Bay Brand Candies * * * Manufactured by McGraw Candy Co. Mobile, Ala."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 2, 1938, no claimant having appeared, judgment of condemnation was entered and the property was ordered disposed of in the manner provided by law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28770. Adulteration of candy. U. S. v. 30 Boxes of Candy. Decree of condemnation. Product ordered disposed of as provided by law. (F. & D. No. 41015. Sample No. 50533–C.)

This product was insect-infested and dirty.

On December 7, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 boxes of candy at Biloxi, Miss., alleging that the article had been shipped in interstate commerce on or about July 29, 1937, by the Bennett-Hubbard Candy Co. from Chattanooga, Tenn., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Panned Delights Manufactured by Bennett-Hubbard Candy Co., Chattanooga, Tenn."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 2, 1938, no claimant having appeared, judgment of condemnation was entered and the property was ordered disposed of in the manner provided by law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28771. Adulteration of canned cherries. U. S. v. 136 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 41627. Sample Nos. 51875–C, 7473–D, 7475–D.)

Samples of this product were found to contain worms.

On February 4, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 cases of canned cherries at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 14, 1937, from Hillsboro, Oreg., by Ray-Maling Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Premier Royal Anne Cherries * * * Francis H. Leggett & Co., Distributors, New York."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28772. Adulteration of whitefish. U. S. v. 3 Crates of Whitefish. Default decree of condemnation and destruction. (F. & D. No. 41465. Sample No. 252–D.)

This product was infested with parasitic worms.

On January 18, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three crates of whitefish at Los Angeles, Calif., alleging that the article had been shipped in foreign commerce on or about January 8, 1938, by Selkirk Fish Co., from Winnipeg, Manitoba, Canada, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On February 17, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28773. Adulteration of canned peas. U. S. v. 1,700 Cases of Canned Peas. Default decree and order of destruction. (F. & D. No. 41467. Sample No. 7584–D.)

This product was weevil-infested.

On January 19, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,700 cases of canned peas at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, by Big Horn Canning Co. from Longview, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Unigrow Brand Sweet Peas * * * Packed Especially For United Grocers Company Brooklyn, N. Y."

Adulteration was alleged in substance in that the article consisted in whole or in part of a filthy vegetable substance since it was infested with weevils.

On April 12, 1938, no claimant having appeared, judgment of destruction was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28774. Adulteration and misbranding of olive oil. U. S. v. 11 Cans and 8 Cases of Olive Oil. Default decree of condemnation and destruction. (F. & D. No. 41443. Sample No. 37696–C.)

This product was an artificially colored and flavored cottonseed oil which contained little, if any, olive oil.

On January 18, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 gallon cans and 8 cases, each containing 12 gallon cans of alleged olive oil, at Brooklyn, N. Y., alleging that the article had been delivered for shipment from New York, N. Y., to Jersey City, N. J., on or about December 20, 1937, by Carmine Esposito, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled in part: (Cans) "Net Contents One Gallon Olio Puro Garantito Impaccato Expressamente per Minning [design of olive branch and olives] da V. B. & D. S. Maria Evico Pro Caserta Italy, * * * Pure Imported Olive Oil"; (cases) "12—1-gallon Tins Italian Pure Olive Oil Products of Italy."

The product was alleged to be adulterated in that artificially colored and flavored cottonseed oil had been mixed and packed with it so as to reduce or lower its quality or strength.

It was alleged to be misbranded in that the statements appearing on the cans and cases were false and misleading and tended to deceive and mislead the prospective purchaser, since it contained little, or no, olive oil. It was alleged to be misbranded further in that it purported to be a foreign product, which it was not.

On March 7, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28775. Adulteration and misbranding of spaghetti. U. S. v. Favro Macaroni Manufacturing Co. Plea of guilty. Fine, $11 and costs. (F. & D. No. 39842. Sample No. 36616–C.)

This product was made from flour and semolina and was artificially colored so as to simulate the appearance of spaghetti made wholly from semolina.

On March 4, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Favro Macaroni Manufacturing Co., a corporation, Seattle, Wash., alleging that on or about June 8, 1937, the defendant had shipped from the State of Washington into the State of Oregon, a quantity of spaghetti which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: (Case) "Spaghetti * * * 100% Semolina * * * Favro Macaroni Mfg. Co., Seattle Portland."

It was alleged to be adulterated in that a substance, namely, spaghetti made from flour and semolina, had been substituted wholly for spaghetti made wholly from semolina, which it purported to be; and in that it had been colored with

tartrazine and orange I, in a manner whereby its inferiority to spaghetti made wholly from semolina was concealed.

It was alleged to be misbranded in that the statement "100% Semolina," borne on the case, was false and misleading and was applied thereto so as to deceive and mislead the purchaser in that the said statement represented that the article had been made wholly from semolina; whereas it had been made from flour and semolina and was artificially colored so as to simulate the color of spaghetti made wholly from semolina.

On March 28, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $11 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

28776. Adulteration of dried prunes. U. S. v. 42 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. & D. No. 41607. Sample No. 8322–D.)

This product was infested with worms and weevils.

On February 5, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 boxes of prunes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 5, 1937 [1936], from San Jose, Calif., by California Prune & Apricot Growers Association Plant No. 11, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Golden Glow Brand * * * Pitted Prunes, Calif. Prune and Apricot Growers Association, San Jose, Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28777. Misbranding of pecan meats, walnut meats, and mixed salted nuts. U. S. v. 30 Cases of Pecan Meats, 27 Cases of Walnut Meats, and 35 Cases of Mixed Salted Nuts. Decree of condemnation. Product ordered released under bond for repacking and sale in bulk. (F. & D. No. 41347. Sample Nos. 55253–C, 55254–C, 55255–C, 55275–C, 55276–C, 55277–C.)

This product was packed in a container with a false bottom. The quantity of the contents was not plainly and conspicuously declared.

On January 7, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 92 cases of nut meats and mixed salted nuts at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, by John W. Leavitt Co. from Boston, Mass., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Weight 4 Ozs. [or "Net Weight 5 Ozs. Salted Nuts"] * * * Nut Meats John W. Leavitt Co., Boston, Mass."

It was alleged to be misbranded in that the package bore a device which was misleading as to the quantity of the contents of the package. The article was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 23, 1938, John W. Leavitt Co. having appeared, admitted the allegations of the libel, and consented. judgment of condemnation was entered and the product was ordered released under bond conditioned that it be repacked and sold only in bulk. On March 5, 1938, the decree was amended to permit shipment under the direction and supervision of this Department to Boston, Mass., for such repacking.

M. L. WILSON, *Acting Secretary of Agriculture.*

28778. Adulteration and misbranding of catsup. U. S. v. 24 Cases of Catsup. Default decree of condemnation and destruction. (F. & D. No. 41344. Sample No. 21588–C.)

This product contained a red artificial color and pulp other than tomato pulp.

On or about January 7, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of catsup at Gulfport, Miss., alleging that the article had been shipped in interstate commerce on or about December 11, 1937, by E. A. Zatarain and

Sons, Inc., from New Orleans, La., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cases) "2 Doz. 12 oz. Catsup."

The article was alleged to be adulterated in that artificially colored tomato catsup that contained pulp other than tomato pulp had been mixed and packed with it so as to reduce or lower its quality or strength; in that artificially colored tomato catsup containing pulp other than tomato pulp had been substituted wholly or in part for the article; and in that it was mixed and colored in a manner whereby its inferiority was concealed.

It was alleged to be misbranded in that the statement "catsup" was false and misleading and tended to deceive and mislead purchasers in that the unqualified term "catsup" is understood both by the trade and consumers to mean tomato catsup; and in that it was an imitation of, and was offered for sale, under the distinctive name of another article.

On March 2, 1938, default decree of condemnation and forfeiture, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28779. Adulteration and misbranding of egg noodles. U. S. v. 55 Cartons of Egg Noodles. Default decree of condemnation and destruction. (F. & D. No. 41421. Sample No. 62136–C.)

This product was deficient in egg solids, and it contained soya flour and added coloring.

On January 13, 1938, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 55 cartons of egg noodles at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about April 5 and November 20, 1937, by the Pfaffman Co. from Cleveland, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mother Hubbard Brand Pure Egg Noodles The Pfaffman Company Cleveland, Ohio."

It was alleged to be adulterated in that a substance deficient in egg solids and containing soya flour and added carotene color had been substituted in whole or in part for pure egg noodles, which it purported to be; and in that it was colored in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to an article deficient in egg solids and containing soya flour and added carotene color.

On March 7, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28780. Adulteration of potatoes. U. S. v. 223 Sacks, 28 Sacks, 16 Sacks, and 1,500 Pounds of Potatoes. Default decree of condemnation and destruction. (F. & D. No. 41431. Sample No. 1381–D.)

These potatoes were seriously damaged by net necrosis.

On January 14, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 267 sacks and 1,500 pounds in bulk of potatoes at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 5, 1938, by Paul Jackins from Houlton, Maine, and charging adulteration in violation of the Food and Drugs Act. The sacked portion was labeled in part: "Spudo Brand Potatoes Paul Jackins Houlton, Me."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 25, 1938, no claimant having appeared, judgment of condemnation and forfeiture was entered with order of destruction.

M. L. Wilson, *Acting Secretary of Agriculture.*

28781. Adulteration and misbranding of vanilla, vanillin, and coumarin flavor. U. S. v. 11 One-Quart Bottles of Vanilla, Vanillin, and Coumarin Flavor. Default decree of condemnation and destruction. (F. & D. No. 41327. Sample No. 47678–C.)

This product was an imitation vanilla flavor containing a poison, a glycol.

On January 4, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the dis-

trict court a libel praying seizure and condemnation of 11 quart bottles of food flavor at Cincinnati, Ohio, alleging that the article had been shipped in interstate commerce on or about December 9, 1937, by the Flava Manufacturing Co. from Quincy, Ill., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Manufactured By Flava Mfg. Co., * * * Quincy, Illinois."

It was alleged to be adulterated in that an imitation vanilla flavor containing a glycol, a poison, had been substituted in whole or in part for vanilla, vanillin, and coumarin flavor, a food flavor, which it purported to be.

The article was alleged to be misbranded in that the statement "Vanilla, Vanillin and Coumarin Flavor" was false and misleading and tended to deceive and mislead the purchaser when applied to an imitation vanilla flavor containing a glycol, a poison; and in that the statement, "Containing Vanilla, Vanillin, Coumarin, Vegetable Gum and Chemically Pure Glycerin," was false and misleading since it implied that glycerin was the only solvent; whereas the article contained diethylene glycol, a poison. It was alleged to be misbranded further in that it was an imitation of another product, vanilla flavor.

On March 16, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28782. Adulteration of canned tomato catsup. U. S. v. 20 Cases of Canned Tomato Catsup. Default decree of condemnation and destruction. (F. & D. No. 41473. Sample No. 416–D.)

This product contained filth resulting from worm infestation.

On or about January 25, 1938, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 cases of canned tomato catsup at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about January 7, 1938, by Val Vita Food Products, Inc., from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Val Vita Brand Tomato Catsup * * * Val Vita Products, Inc., Fullerton, California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 30, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28783. Misbranding of canned peas. U. S. v. 387 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41648. Sample No. 7606–D.)

This product was substandard since the peas were not immature, and it was not labeled to indicate that it was substandard.

On or about February 7, 1938, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 387 cases of canned peas at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about July 17, 1937, from Baltimore, Md., by J. Langrall & Bros., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maryland Chief Brand Early June Peas * * * Packed by J. Langrall & Bro., Inc., Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 23, 1938, J. Langrall & Bro., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28784. Adulteration of candy. U. S. v. 5 Cartons of Candy. Default decree of condemnation and destruction. (F. & D. No. 41637. Sample No. 8994–D.)

This product was infested with insects and was also rancid.

On February 9, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of five cartons of candy at Hammond, Ind., alleging that the article had been shipped in interstate commerce—having been shipped by the Queen Anne Candy Co., of Hammond, Ind., to Hartford, Conn., and having been returned by the consignee to Queen Anne Candy Co., at Hammond, Ind., on or about December 28, 1937; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28785. Misbranding of apples. U. S. v. 600, 500, 900, 110, and 30 Baskets of Apples. Decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 40943 to 40946, incl. Sample Nos. 66421–C to 66424–C, incl.)

This product fell below the grades declared on the baskets because of excessive defects.

On or about November 30, 1937, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 2,140 baskets of apples at Tabler, W. Va., alleging that the article had been shipped in interstate commerce between September 1, 1937, and October 25, 1937, from Winchester and Alban, Va., by L. B. Ressequie, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Baskets) "U. S. No. 1 [or "U. S. Utility"] * * * Grown & Packed by L. B. Ressequie Winchester, Va."

It was alleged to be misbranded in that the apples fell below the respective grades indicated on the baskets.

On December 31, 1937, no claim or answer having been filed, judgment of condemnation and destruction was entered. L. B. Ressequie having subsequently moved for leave to intervene as claimant, the motion was granted and on January 12, 1938, the product was ordered released under bond conditioned that it be disposed of only in compliance with the law and under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28786. Adulteration and misbranding of butter. U. S. v. 49 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42093. Sample No. 3130–D.)

This product contained less than 80 percent of milk fat.

On February 16, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 1, 1937, from Hutchinson, Kans., by Salt City Creamery, of Hutchinson, Kans., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

Misbranding was alleged in that the article was labeled "butter," which was false and misleading and deceived the purchaser, since it contained less than 80 percent of milk fat.

On March 31, 1938, Bennett & Layton, Inc., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28787. Misbranding of canned peas. U. S. v. 126 Cases of Canned Peas. Default decrees of condemnation. Property ordered delivered to charitable institution. (F. & D. No. 41198. Sample No. 48451–C.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On December 21, 1937, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 126 cases of canned peas at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about October 6, 1937, by Frederick City Packing Co. from Thurmont, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lyric Brand Early June Peas * * * M. E. Horton, Inc., Distributors, Washington, D. C."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture to the effect that such canned food fell below such standard.

On March 18, 1938, default decree of condemnation was entered, and it was ordered that the property be delivered to certain charitable organizations for their use and not for sale.

M. L. WILSON, *Acting Secretary of Agriculture.*

28788. Adulteration of tomato paste. U. S. v. 99 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 41319. Sample No. 45409–C.)

This product was worm- and insect-infested.

On January 4, 1938, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of tomato paste at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about December 7, 1937, by Howard Terminal from Oakland, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Madonna Brand Fancy Pure Tomato Paste * * * Packed by Riverbank Canning Company, Riverbank, California."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On February 26, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28789. Adulteration of codfish. U. S. v. 9 Boxes of Codfish. Default decree of condemnation and forfeiture. Order of destruction. (F. & D. No. 41325. Sample Nos. 39065–C, 45439–C.)

This article was moldy salted codfish.

On January 4, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine boxes of codfish at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about December 20, 1937, by Wm. G. Goldberg from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act.

It was alleged that the article was adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 26, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28790. Adulteration and misbranding of canned cherries. U. S. v. 44½ and 28 Cases of Canned Cherries (and 1 other seizure action against the same product). Portion of product released under bond for relabeling; remainder condemned and destroyed. (F. & D. Nos. 40302, 40303. Sample Nos. 50791–C, 50792–C.)

This product was contained in No. 10 and No. 2 cans. Both sizes were substandard, the former because of excessive packing medium and the latter because of excessive pits, and they were not labeled to indicate that they were substandard. The product in the No. 10 cans contained worms.

On September 21, 1937, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 114½ cases containing No. 2 cans and 113 cases containing No. 10 cans of cherries at Butte, Mont., alleging that the article had been shipped in interstate commerce on or about July 26 and August 19, 1937, from Post Falls, Idaho, by Seiter's, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Coeur D'Alene Brand Red Sour Pitted Cherries * * * Seiter's, Inc. Coeur D'Alene, Idaho."

The article in the No. 10 cans was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance. The article in both sized cans was alleged to be misbranded in that it was canned food and fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture in that the No. 10 cans contained excess packing medium and the No. 2 cans contained excessive pits, and the packages or labels did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On January 5, 1938, Seiter's, Inc., having filed a claim for the product in the No. 2 cans and having filed a bond conditioned that the claimant pay costs and relabel the goods, the court ordered the said No. 2 cans released. On January 13, 1938, the product in the No. 10 cans was condemned and ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28791. Adulteration of frozen strawberries. U. S. v. 88 Barrels of Frozen Strawberries. Product ordered released under bond for segregation and destruction of unfit portion. (F. & D. No. 40889. Sample Nos. 14474–C, 59812–C.)

This product was in part decomposed because of the presence of mold.

On November 19, 1937, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 88 barrels of frozen strawberries at Milwaukee, Wis., alleging that the article had been shipped in interstate commerce on or about July 23, 1937, from Albany, Oreg., by R. I. MacLaughlin & Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Oregon Strawberries * * * R. I. MacLaughlin & Co. Salem Albany Ore."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid vegetable substance.

On February 8, 1938, R. I. MacLaughlin & Co. having appeared as claimant, the product was ordered released under bond conditioned that the unfit portion be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28792. Adulteration of frozen shrimp. U. S. v. 9,020 Pounds of Frozen Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41947. Sample Nos. 14331–D, 14332–D.)

This product was in whole or in part decomposed.

On March 8, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9,020 pounds of frozen shrimp at Boston, Mass., consigned on or about August 17, 1937, alleging that the article had been shipped in interstate commerce from New York, N. Y., by C. F. Kraus, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28793. Adulteration and misbranding of cheese. U. S. v. 41 Cases of Cheese. Consent decree of condemnation. Product released under bond. (F. & D. No. 41998. Sample No. 15090–D.)

This product was deficient in fat.

On March 18, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 cases of cheese at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about February 4, 1938, from Seattle, Wash., by the Walter Ely Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Walter Ely Co. Seattle Wn."

It was alleged to be adulterated in that a substance deficient in fat had been mixed and packed with it so as to reduce or lower its quality, and in that a substance deficient in fat had been substituted in whole or in part for the article.

It was alleged to be misbranded in that it was offered for sale under the distinctive name of another article, cheese.

On March 30, 1938, the Walter Ely Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reconditioned and relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28794. Misbranding of butter. U. S. v. 4 Cases of Butter. Decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 42039. Sample No. 2802–D.)

This product was short weight.

On March 12, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four cases of butter at Greeley, Colo., consigned by the Terry Carpenter Store, alleging that the article had been shipped in interstate commerce on or about March 1, 1938, from Terrytown, Nebr., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Carton) "Terry's Congressman Creamery Butter, Terry's Creamery, Terrytown, Nebr."

The article was alleged to be misbranded in that the statement on the label, "One Pound Net," was false and misleading since the package contained less than that quantity; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

28795. Adulteration and misbranding of canned mustard greens. U. S. v. 49 Cases of Canned Mustard Greens. Default decree of condemnation and destruction. (F. & D. No. 41343. Sample No. 61351–C.)

These greens were gritty and insect-infected. Moreover, all were labeled "Mustard Greens," but a part consisted of spinach.

On January 6, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 49 cases of canned mustard greens at New Orleans, La., alleging that the article had been shipped on or about December 3, 1937, in interstate commerce by Dorgan-McPhillips Packing Corporation, from Columbia, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Gulf Kist Brand Mustard Greens * * * Packed by Dorgan-McPhillips Packing Corp. Mobile, Ala."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

A portion was alleged to be misbranded in that the statement "Mustard Greens" was false and misleading and tended to deceive and mislead the purchaser when applied to cans containing spinach.

On March 10, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28796. Adulteration of walnut meats. U. S. v. 6 Boxes and 3 Boxes of Walnut Kernels. Default decree of condemnation and destruction. (F. & D. Nos. 41257, 41258. Sample Nos. 63879–C, 63880–C.)

This product was moldy, rancid, and decomposed.

On December 23, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine boxes of walnut kernels at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about June 16, 1937, by Pacific Nut Growers from Salem, Oreg., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Walnut Kernels Packed At Sunridge Grove Sheridan Oregon."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 26, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28797. Misbranding of canned tomatoes. U. S. v. 445 Cases of Canned Tomatoes. Consent decree ordering product released under bond for relabeling. (F. & D. No. 41668. Sample No. 11401–D.)

This product consisted of tomatoes with puree from trimmings but was not labeled to indicate that fact.

On February 9, 1938, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 445 cases of canned tomatoes at St. Louis, Mo., alleging that the article had been shipped in interstate commerce on or about September 21, 1937, from Marysville, Ind., by Marysville Packing Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cooke's Own Brand * * * Tomatoes * * * Packed by Marysville Packing Co., Marysville, Indiana."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it consisted of tomatoes with puree from trimmings, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 28, 1938, Frank Cooke, trading as Marysville Packing Co., claimant, having admitted the allegations of the libel, the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28798. Adulteration of fresh spinach. U. S. v. 12,972 Pounds of Spinach. Default decree of condemnation and destruction. (F. & D. No. 42091. Sample Nos. 17071–D, 17072–D.)

This product was heavily infested with aphids.

On March 30, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12,972 pounds of spinach at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about March 29, 1938, from Remlik, Va., by Lord-Mott Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 30, 1938, the claimant having consented thereto, judgment of condemnation was entered, and the product was ordered destroyed immediately because of its perishable nature.

M. L. Wilson, *Acting Secretary of Agriculture.*

28799. Misbranding of dairy ration. U. S. v. Northern Oats Co. Plea of guilty. Fine, $25. (F. & D. No. 39811. Sample No. 2605–C.)

This product contained less protein and fat and more fiber than represented.

On March 1, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Northern Oats Co., a corporation, having a place of business in Minneapolis, Minn., alleging that on or about April 12, 1937, the defendant had shipped from the State of Minnesota into the State of Wisconsin a quantity of dairy ration which was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "16% Dairy Ration Manufactured by Lapp Laboratories Minneapolis, Minn."

It was alleged to be misbranded in that the statements "16% Dairy Ration * * * Analysis: Protein 16% Fat 3% Fiber 12%," borne on the tag attached to the sacks containing it, were false and misleading and were borne on the tag so as to deceive and mislead the purchaser, since it contained not more than 12.88 percent of protein, not more than 2.27 percent of fat, and not less than 22.97 percent of fiber.

On March 1, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $25.

M. L. Wilson, *Acting Secretary of Agriculture.*

28800. Misbranding of canned peas. U. S. v. 119 Cases and 83 Cartons of Canned Peas. Default decrees entered. Product ordered delivered to charitable organizations. (F. & D. Nos. 41435, 41908. Sample Nos. 7461–D, 12022–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 17 and March 9, 1938, the United States attorneys for the District of New Jersey and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 119 cases of canned peas at Hoboken, N. J., and 83 cartons of canned peas at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about September 22, 1937, and January 26, 1938, by D. E. Foote & Co., Inc., from Baltimore. Md., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "New Boy Early June Peas * * * American Grocery Company Distributors Hoboken, N. J."; or "Foote's Best Brand Early June Peas * * * Packed by D. E. Foote & Co. Incorporated Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 28 and April 13, 1938, no claimant having appeared, default was entered and the product was ordered delivered to certain charitable organizations, provided that the labels were first removed by such organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

28801. Misbranding of canned peas. U. S. v. 1,286 Cases of Peas. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41803. Sample No. 1318–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 19, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,286 cases of canned peas at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about July 14, 1937, by H. M. Ruff & Son from Woodbine, Pa., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mar-Lo Brand * * * Early June Peas * * * H. M. Ruff & Son Distributors Woodbine, Pa."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 25, 1938, H. Weldon Ruff having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28802. Misbranding of canned cherries. U. S. v. 129 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41810. Sample No. 15106–D.)

This product fell below the standard established by this Department because of the presence of more than 1 cherry pit per 20 ounces of net contents, and it was not labeled to indicate that it was substandard.

On February 24, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 129 cases of canned cherries at Ontario, Oreg., alleging that the article had been shipped in interstate commerce on or about August 3 and September 21, 1937, by the Rogers Co. from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Heep Full Brand Red Sour Pitted Cherries * * * Packed by Valley Fruit Canning Co. Puyallup, Wash."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that there was present more than one cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On March 16, 1938, the Valley Fruit Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28803. Adulteration of crab meat. U. S. v. 16 Pounds of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 41915. Sample No. 13275–D.)

This product was in whole or in part filthy.

On February 15, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 pounds of crab meat at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about February 12, 1938, by the South Atlantic Crab Co. from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28804. Adulteration of crab meat. U. S. v. 1 Barrel and 1 Barrel of Crab Meat. Default decrees of condemnation and destruction. (F. & D. Nos. 41881, 41883. Sample Nos. 13285–D, 13304–D.)

This product was in whole or in part filthy.

On February 18, 1938, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of two barrels of crab meat at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 14 and 16, 1938, by the Florida Crab Co. from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 11, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28805. Adulteration of crab meat. U. S. v. 1 Barrel and 1 Barrel of Crab Meat. Default decrees of condemnation and destruction. (F. & D. Nos. 41884, 41916. Sample Nos. 13310–D, 13311–D.)

This product contained filth.

On February 24, 1938, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of two barrels of crab meat at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 19, 1938, by E. A. Smith from Eau Gallie, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 11, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28806. Adulteration of fish roe. U. S. v. 2 Tubs, et al., of Fish Roe (and 1 other similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 41996, 42087, 42088, 42089. Sample Nos. 12215–D, 12224–D, 12225–D, 12226–D.)

This product contained parasitic worms and fish scales.

On March 19 and 31, 1938, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 8 tubs of fish roe in various lots at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 8, 15, 17, and 18, 1938, from Two Rivers, Wis., in part by Frank Lonzo & Sons, in part by Carl L. Griep, and in part by Eugene Carron, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 8 and 23, 1938, no claimants having appeared, judgment of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28807. Adulteration of canned tuna. U. S. v. 24 Cases and 49 Cases of Canned Tuna. Default decrees of condemnation and destruction. (F. & D. Nos. 41832, 41833. Sample Nos. 315–D, 18393–D.)

This product was in whole or in part decomposed.

On February 25 and 26, 1938, the United States attorneys for the District of Massachusetts and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 73 cases of canned tuna in various lots at Boston, Mass., and New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 2 and 13, 1938, by San Carlos Canning Co., from Los Angeles, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "San Carlos Canning Co. Monterey and Long Beach, Calif."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 5 and 25, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28808. Adulteration of canned shrimp. U. S. v. 24 21/48 Cartons and 20 Cases of Shrimp. Default decrees of condemnation and destruction. (F. & D. Nos. 41850, 41991. Sample Nos. 8027–D, 16124–D.)

This product was in whole or in part decomposed.

On March 1 and 17, 1938, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of $24\frac{21}{48}$ cartons and 20 cases of canned shrimp at Hoboken, N. J., alleging that the article had been shipped in interstate commerce on or about February 19, 1938, by Foreign Products Corporation from New Orleans, La., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Distributed by [or "Packed for"] L. C. Mays Co., Inc. New Orleans, La."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 8 and 26, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28809. Adulteration of canned clams. U. S. v. 25½ Cartons, et al., of Canned Clams. Default decrees of condemnation and destruction. (F. & D. Nos. 41994, 41997, 42036. Sample Nos. 13994–D, 14118–D, 14119–D.)

This product was decomposed.

On March 18 and 23, 1938, the United States attorneys for the District of Massachusetts and the District of Rhode Island, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of $31\frac{3}{4}$ cartons of canned clams at Worcester, Mass., and 10 cases of canned clams at Providence, R. I., alleging that the article had been shipped in interstate commerce in various lots on or about May 18, November 3, and December 10, 1937, by Brown & Hart Packing Co., from Millbridge, Cherryfield, and Portland, Maine, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "B & H Brand Fancy Clams * * * Packed by Brown & Hart Packing Co. Millbridge, Maine"; "Hampden Brand Fancy Maine Clams Packed Expressively for Pozzy, Horrocks & Merrill, Inc. Bangor and Boston."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 25 and 26, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28810. Adulteration of canned shrimp. U. S. v. 73 Cases of Canned Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41906. Sample No. 16130–D.)

This product was in whole or in part decomposed.

On March 9, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 73 cases of canned shrimp at New Orleans, La., alleging that the article had been delivered on

or about February 24, 1938, by the Adler Export Co., and was intended for export to a foreign country, Trinidad, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Barataria Brand Shrimp Packed for Export Only * * * Packed for The Adler Export Co., New Orleans, La."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28811. Adulteration of shrimp. U. S. v. 50 Blocks of Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41847. Sample No. 11915–D.)

This product was in whole or in part decomposed.

On February 16, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of fifty 10-pound blocks of shrimp at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about August 20, 1937, by H. F. Sahlman, from Fernandina, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28812. Adulteration of frozen eggs. U. S. v. 521 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. & D. No. 41787. Sample No. 13894–D.)

This product was decomposed.

On February 23, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 521 cans of frozen eggs at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about July 14, 1937, by Marshall Kirby & Co., Inc., from Terre Haute, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Frozen Eggs Solids Guaranteed Marshall Kirby & Co., Inc. Terre Haute, Ind."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid animal substance.

On March 31, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28813. Adulteration of apple butter. U. S. v. 5 Jars, 7 Cartons, and 7 Jars of Apple Butter. Default decree of condemnation and destruction. (F. & D. Nos. 41677, 41678. Sample No. 45603–C.)

This product was infested with mites and contained insect and worm fragments.

On February 10, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 jars and 7 cartons of apple butter at Oakland, Calif., alleging that the article had been shipped in interstate commerce on or about May 7, 1937, by Preserves & Honey, Inc., from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "H & H [or "Acme"] Brand Pure Apple Butter * * * Preserves & Honey, Inc. New York, N. Y."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 17, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28814. Adulteration of tomato puree. U. S. v. 45 Cases and 46 Cases of Tomato Puree. Default decrees of condemnation and destruction. (F. & D. Nos. 41811, 41812. Sample Nos. 8396–D, 8399–D.)

This product contained excessive mold.

On February 21, 1938, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 91 cases of tomato puree at Milwaukee, Wis. alleging that the article had been shipped in interstate commerce on or about September 16 and November 12, 1937, by the Swayzee Canning Co. from Swayzee, Ind., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Hiatt [or "Truflavor"] Brand Tomato Puree * * * Packed By The Swayzee Canning Co. Swayzee, Ind."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 30, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28815. Adulteration and misbranding of bitter almond oil. U. S. v. 4 Gallons and 1 Gallon of "Almond Oil Bitter." Default decrees of condemnation and destruction. (F. & D. Nos. 41688, 41689. Sample Nos. 1591–D, 1592–D.)

This product was represented to be bitter almond oil, whereas it was an imitation bitter almond oil that contained about 80 percent of mineral oil.

On February 11, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 5 gallons of bitter almond oil at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about March 20, 1937, and January 4, 1938, by the Willmark Corporation, Inc., from Long Island City, N. Y., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Willmark Almond Oil Bitter Quality Product * * * Willmark Baking Products, Inc. Long Island City, N. Y."

It was alleged to be adulterated in that mineral oil had been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength; and in that mineral oil had been substituted in whole or in part for bitter almond oil, which the article purported to be.

The article was alleged to be misbranded in that the statement, "Almond Oil Bitter Quality Product," was false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of bitter almond oil and mineral oil containing about 80 percent of mineral oil; and in that it was an imitation of and was offered for sale under the distinctive name of another article.

On March 14, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28816. Adulteration of butter. U. S. v. 23 Cubes of Butter. Decree of condemnation. Product released under bond. (F. & D. No. 41875. Sample No. 2765–D.)

This product contained less than 80 percent of milk fat.

On February 19, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about June 10, 1937, by Page Milk Co. from Marshall, Mo., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On March 31, 1938, Bennett & Layton, Inc., San Francisco, Calif., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28817. Adulteration and misbranding of frozen eggs. U. S. v. 55 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. & D. No. 41859. Sample No. 8080–D.)

This product was decomposed; it also failed to bear a statement of the quantity of contents.

On March 3, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 55 cans of frozen eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 3 and 7, 1938, from Jersey City, N. J., by June Dairy Products Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed or putrid animal substance.

It was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since no declaration was made thereon.

On March 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28818. Adulteration of canned eggs. U. S. v. 85 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. & D. No. 41867. Sample No. 8079–D.)

This product was decomposed.

On March 4, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 85 cans of frozen eggs at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 6, 1938, by Benjamin Titman Corporation from Jersey City, N. J., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Keith's Ovisco Eggs Egg Yolks and Egg Whites * * * Distributed by the Borden Company * * * New York."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28819. Adulteration of shrimp. U. S. v. 79 Blocks of Shrimp. Default decree of condemnation and destruction. (F. & D. No. 41879. Sample No. 11916–D.)

This product was in whole or in part decomposed.

On February 18, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seventy-nine 10-pound blocks of shrimp at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about May 20, 1937, by Union Fish Co. from Baltimore, Md., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28820. Adulteration of turkeys. U. S. v. 1 Barrel of Turkeys. Default decree of condemnation and destruction. (F. & D. No. 41920. Sample No. 13971–D.)

This product was damaged by mice and it contained rodent excreta.

On March 9, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one barrel of turkeys at New Bedford, Mass., alleging that the article had been shipped in interstate commerce on or about November 14, 1937, by Farmers' Produce Co. from Hamilton, Tex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28821. Adulteration of crab meat. U. S. v. 129 Pounds of Crab Meat (and 2 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41846, 41880, 41882. Sample Nos. 13277–D, 13281–D, 13287–D.)

This product contained filth.

On February 15, 16, and 18, 1938, the United States attorneys for the Eastern District of Pennsylvania and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 129 pounds of crab meat at Philadelphia, Pa., and 2 barrels of crab meat at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 12 and 14, 1938, by Gulf Crest Fisheries Co. from Jacksonville, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 5, 11, and 14, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28822. Adulteration of frozen eggs. U. S. v. 200 Cans of Frozen Eggs. Default decree of condemnation and destruction. (F. & D. No. 41842. Sample No. 16402–D.)

This product was in whole or in part decomposed.

On March 1, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cans of frozen eggs at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about January 15, 1938, by Armour Creameries from Louisville, Ky., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On March 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28823. Adulteration of canned grapefruit. U. S. v. 74 Cases of Canned Grapefruit. Default decree of condemnation and destruction. (F. & D. No. 41857. Sample No. 14770–D.)

This product was decomposed.

On March 5, 1938, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 74 cases of grapefruit at Spokane, Wash., alleging that the article had been shipped on or about January 12, 1938, by Eckerson Fruit Canners, Inc., from Sanford, Fla., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Eckerson's Broken Sections Fancy Florida Tree Ripened Grapefruit."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On April 6, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28824. Adulteration of prunes. U. S. v. 222 Cartons of Prunes. Default decree of condemnation and destruction. (F. & D. No. 41965. Sample No. 2683–D.)

This product was insect-infested, moldy, and filthy.

On March 17, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 222 cartons of prunes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 14, 1938, from Oakland, Calif., by Rosenberg

Bros. & Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "For Manufacturing Purposes Only * * * Packed For Max Ams Inc New York."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28825. Adulteration of prunes. U. S. v. 80 Cases of Prunes. Default decree of condemnation and destruction. (F. & D. No. 41758. Sample No. 14873–D.)

This product was moldy and decomposed.

On February 23, 1938, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 80 cases of prunes at Missoula, Mont., alleging that the article had been shipped in interstate commerce on or about June 18, 1937, from Portland, Oreg., by the Oregon Transfer Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a moldy, filthy, and decomposed or putrid vegetable substance.

On April 1, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28826. Adulteration of sauerkraut. U. S. v. 24 Barrels of Sauerkraut. Default decree of condemnation and destruction. (F. & D. No. 42069. Sample No. 7518–D.)

This product was decomposed.

On March 28, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 barrels of sauerkraut at New York, N. Y., imported from Gdynia, Poland, alleging that the article had been shipped on or about February 19, 1937, by Schenker & Co., for Bacon Export Gniezno, Ltd., Bydgoszcz, Poland, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sauerkraut B E G Product of Poland Schenker & Co New York."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On April 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28827. Adulteration of peach preserves. U. S. v. 12 Cases of Peach Preserves. Default decree of condemnation and destruction. (F. & D. No. 41959. Sample No. 17223–D.)

This product was moldy.

On March 14, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 cases of canned peach preserves at Washington, D. C., alleging that the article had been shipped on or about February 17, 1938, by Francis H. Leggett & Co. from Philadelphia, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baron's Pure Peach Preserves H. Baron & Co. * * * Brooklyn, N. Y."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28828. Adulteration of apricots. U. S. v. 799 Cases of Apricots. Consent decree of condemnation and destruction. (F. & D. No. 41582. Sample Nos. 2708–D, 3102–D.)

This product was insect-infested, dirty, and moldy.

On February 4, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 799 cases of California

apricots at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 14, 1938, from Oakland, Calif., by Winchester Dried Fruit Co., San Jose, Calif., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 5, 1938, Max Ams, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28829. Adulteration of chestnuts. U. S. v. 67 Baskets of Chestnuts. Default decree of condemnation and destruction. (F. & D. No. 42129. Sample No. 14141–D.)

This product was moldy, wormy, and decomposed.

On March 26, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 67 baskets of chestnuts at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about November 20, 1937, by Manny Cohen Co. from New York, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crown Brand Selected Green Chestnuts Products of Portugal Benito Garcia, Lda., Exporters, Lisbon, Portugal."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On April 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28830. Adulteration of cheese. U. S. v. 3 Cases of Limburger Cheese. Default decree of condemnation and destruction. (F. & D. No. 41808. Sample No. 9513–D.)

This product contained insect fragments and rodent hairs.

On February 23, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cases of Limburger cheese at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about November 11, 1937, by J. & H. Van Vleck from Westernville, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fairmont's Limburger New York State Better Cheese Distributed by The Fairmont Creamery Co."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28831. Adulteration and misbranding of black pepper. U. S. v. 6 Barrels of Black Pepper. Default decree of condemnation and destruction. (F. & D. No. 42066. Sample No. 688–D.)

This product consisted of ground pepper shells.

On March 29, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six barrels of black pepper at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about January 26 and March 3, 1938, by the Schloss & Kahn Grocery Co. from Montgomery, Ala., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schloss & Kahn Gro Co. Montgomery Ala Pepper."

It was alleged to be adulterated in that pepper shells had been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; in that pepper shells had been substituted in whole or in part for the article; and in that it had been mixed in a manner whereby inferiority was concealed.

The article was alleged to be misbranded in that the statement "Pepper" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that consisted of ground pepper shells; and in that it was offered for sale under the distinctive name of another article, pepper.

On April 30, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28832. Misbranding of canned cherries. U. S. v. 21 Cartons of Canned Cherries. Consent decree of condemnation. Products released under bond. (F. & D. No. 41680. Sample No. 15141–D.)

This product fell below the standard established by this Department because it contained an excessive number of pits, and it was not labeled to indicate that it was substandard.

On February 10, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 cartons of canned cherries at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about August 10, 1937, by Pacific Fruit & Produce Co. from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Garden Brand * * * Red Sour Pitted Cherries * * * Packed for International Brokerage Co. Seattle—Minneapolis."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that such canned food fell below such standard.

On March 8, 1938, the Valley Fruit Canning Co., Seattle, Wash., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28833. Adulteration of shrimp. U. S. v. 21 Blocks of Frozen Shrimp. Default decree of condemnation and destruction. (F. & D. No. 42172. Sample No. 12923–D.)

This product was wholly or in part decomposed.

On April 5, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of twenty-one 10-pound blocks of frozen shrimp at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 3, 1938, by Ed Martin Sea Food Co. from Westwego, La., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28834. Misbranding of butter. U. S. v. 359 Cases of Butter. Decree of condemnation. Product released under bond. (F. & D. No. 42040. Sample No. 3243–D.)

This product was short weight.

On March 11, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 359 cases of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about March 3, 1938, by Interstate Associated Creameries from Portland, Oreg., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Red Ribbon Pasteurized Fancy Creamery Butter * * * Manufactured for Leslie Company Ltd. San Francisco, Calif."

The article was alleged to be misbranded in that the statement "Net Weight 1 Pound" was false and misleading since it contained less than this quantity; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On March 16, 1938, Purity Stores, Ltd., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28835. Adulteration and misbranding of shelled peanuts. U. S. v. 202 Bags of Shelled Peanuts. Consent decree of condemnation. Product released under bond. (F. & D. No. 42072. Sample No. 9865–D.)

This product was dirty and the bags containing it bore no quantity of contents statement.

On March 26, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 202 bags of shelled peanuts at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about February 25, 1938, from Petersburg, Va., by the J. B. Worth Co., of Petersburg, Va., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

It was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since no quantity was stated.

On March 30, 1938, Lummis & Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond, conditioned that it be not disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28836. Adulteration of butter. U. S. v. 55 Tubs of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 41912. Sample Nos. 2769–D, 3208–D.)

This product contained less than 80 percent of milk fat.

On February 28, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 55 tubs of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about May 6, 1937, from Chicago, Ill., by L. D. Schreiber Co., Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On March 10, 1938, the Wilsey Bennett Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28837. Adulteration and misbranding of egg noodles. U. S. v. 10 Cartons, 60 Cartons, 20 Cartons, and 20 Cartons of Egg Noodles. Default decree of condemnation. Product delivered to charitable institutions. (F. & D. No. 41675. Sample Nos. 1437–D to 1440–D, incl.)

This product was deficient in egg content. A portion also contained added color and a portion was short weight.

On February 10, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 110 cartons of egg noodles at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 21, 1938, from Wilkes-Barre, Pa., by Blue Ribbon Egg Noodle Co., Inc., and charging adulteration and misbranding, in violation of the Food and Drugs Act.

The article, except the 10-carton lot, was alleged to be adulterated in that it was colored in a manner whereby inferiority was concealed.

The entire shipment was alleged to be misbranded in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to articles deficient in egg content; and, except in the case of the 10-carton lot, when applied to articles that contained added yellow coal-tar color. The 10-carton lot was alleged to be misbranded further in that the statement "Net Wt. 1 Lb." was false and misleading and tended to deceive and mislead the purchaser as applied to an article that was short weight.

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

28838. Adulteration of oranges. U. S. v. 172 Bushels of Oranges. Default decree of condemnation and destruction. (F. & D. No. 41913. Sample No. 10028–D.)

This product was decomposed and had been damaged by drying.

On or about February 24, 1938, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 172 bushels of oranges at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about February 22, 1938, from Leesburg, Fla., by H. E. Jones, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that citrus fruit damaged by drying had been substituted in whole or in part for edible citrus fruit; in that a valuable constituent, juice, had been in whole or in part abstracted; and in that the article consisted in whole or in part of a decomposed vegetable substance.

On March 19, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28839. Misbranding of tomatoes with puree from trimmings. U. S. v. 700 Cases and 300 Cartons of Tomatoes with Puree from Trimmings. Consent decrees of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 41896, 41898. Sample Nos. 303–D, 327–D.)

This product fell below the standard established by this Department, because it did not consist of whole or large pieces of tomatoes, and it was not labeled to indicate it was substandard. The labeling of one lot also bore a false and misleading statement of the quantity of contents.

On March 3 and 5, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,000 cases of tomatoes with puree from trimmings at New York, N. Y., alleging that the article had been shipped in interstate commerce by the McKeon Canning Co., Inc., on or about January 28 and 30, 1938, from Burbank, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Red Head Brand * * * Tomatoes with Puree from Trimmings * * * Packed By McKeon Canning Co., Inc., Burbank, Calif."; or "Helwick's Brand Tomatoes with Puree from Trimmings * * * Packed for Helwick Bros. Yonkers, N. Y."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since it did not consist of whole or large pieces, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard. One lot was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 29, 1938, McKeon Canning Co., Inc., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28840. Misbranding of canned tuna flakes. U. S. v. 50 Cartons of Canned Tuna Flakes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41756. Sample No. 348–D.)

A portion of this product was short weight.

On February 24, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cartons of canned tuna flakes at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about February 2, 1938, from San Diego, Calif., by Point Loma Tuna Packers, Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Ascot Light Meat Tuna Flakes * * * Packed by Point Loma Tuna Packers, Inc., Point Loma, San Diego, Calif."

It was alleged to be misbranded in that the statement "Net Weight 13 Oz.," borne on a portion of the labels, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight;

and in that such portion was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On March 22, 1938, Point Loma Tuna Packers, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28841. Misbranding of canned peas. U. S. v. 79 Cases of Canned Peas. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41806. Sample No. 16826–D.)

This product was substandard because the peas were not immature, and it was not labeled to indicate that it was substandard.

On February 21, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 cases of canned peas at Snow Hill, Md., alleging that the article had been shipped in interstate commerce on or about January 7, 1938, by Roma Wholesale Grocery Co. from Scranton, Pa., and charging misbranding in violation of the Food and Drugs Act. The article had been shipped to Roma Wholesale Grocery Co., by W. D. Onley Canning Co., of Snow Hill, Md., and had been returned to the packer by the original consignee. The article was labeled in part: "Wecan Brand Quality Vegetables Early June Peas * * * Distributed By W. T. Onley Canning Co., Snow Hill, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 28, 1938, W. T. Onley Canning Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28842. Misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Product released under bond for segregation of good portion. (F. & D. No. 41840. Sample No. 16806–D.)

These potatoes were represented to be U. S. grade No. 1, but fell below the standard established by this Department for that grade because of excessive defects.

On February 28, 1938, the United States attorney for the Northern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at South Bend, Ind., alleging that the article had been shipped in interstate commerce on or about February 18, 1938, from Heyburn, Idaho, by Wayne Newcomb of Rupert, Idaho, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement on the label, "U. S. No. 1," was false and misleading and tended to deceive and mislead the purchaser.

On March 4, 1938, Wayne Newcomb having appeared as claimant, the product was released under bond conditioned that the potatoes be re-sorted.

M. L. WILSON, *Acting Secretary of Agriculture.*

28843. Adulteration of crab meat. U. S. v. 1 Barrel of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 41845. Sample Nos. 13302–D, 13303–D.)

This product was filthy.

On February 18, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one barrel of crab meat at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about February 16, 1938, from Jacksonville, Fla., by the Florida Crab Meat Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28844. Misbranding of canned cherries. U. S. v. 21 Cases of Canned Cherries. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41731. Sample No. 8962–D.)

This product fell below the standard for fill of container established by this Department and was not labeled to indicate that it was substandard.

On February 18, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 21 cases of canned cherries at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 2 and September 24, 1937, from Plainwell, Mich., by the Plainwell Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Del Rea Brand Water Pack R S P Cherries Distributed by Ace Wholesale Grocers, Inc., Chicago, Ill."

The article was alleged to be misbranded in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, since the drained weight of the cherries was less than 13.5 ounces, and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On April 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

M. L. Wilson, *Acting Secretary of Agriculture.*

28845. Adulteration of allspice and red pepper. U. S. v. 6¾ Cases of Allspice (and 2 similar seizure actions). Default decrees of condemnation. Product destroyed. (F. & D. Nos. 41107, 41108, 41109. Sample Nos. 50538–C, 50540–C, 50541–C.)

These products were infested with insects.

On December 16, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 6¾ cases of allspice and 24 cases of red pepper at Biloxi, Miss., alleging that the article had been shipped in interstate commerce on or about January 24, 1936, and September 16 and 17, 1937, from Cincinnati, Ohio, by the Frank Tea & Spice Distributing Co., of Cincinnati, Ohio, and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Dove Brand Allspice [or "Red Pepper"] * * * The Frank Tea and Spice Co., Cincinnati, Ohio."

They were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances.

On March 2, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28846. Adulteration of chili sauce. U. S. v. 105 Cases and 92 Cases of Chili Sauce. Default decrees of condemnation and destruction. (F. & D. Nos. 41854, 41858. Sample Nos. 16519–D, 16520–D.)

This product contained pieces of sharp iron filings.

On March 3, 1938, the United States attorney for the Western District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 197 cases of chili sauce at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce on or about December 17, 1937, from Bridgeton, N. J., by the P. J. Ritter Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ritter Genuine Tobasco Flavor Chili Sauce Made by P. J. Ritter Co., Bridgeton, N. J."

It was alleged to be adulterated in that it contained an added deleterious ingredient, sharp iron filings, which might have rendered it injurious to health.

On April 6, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28847. Adulteration of canned turnip greens. U. S. v. 26 Cases of Turnip Greens. Default decree of condemnation and destruction. (F. & D. No. 41869. Sample No. 16057–D.)

This product contained aphids, larvae, and insect fragments.

On March 8, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 cases of canned turnip greens at Baton Rouge, La., alleging that the article had been shipped in interstate commerce on or about November 18, 1937, from Dallas, Tex., by the Thrift Packing Co., of Dallas, Tex., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Thrift Turnip Greens * * * Thrift Packing Co., Dallas, Texas."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28848. Adulteration of fresh spinach. U. S. v. 1,049 Baskets of Fresh Spinach. Consent decree of condemnation and destruction. (F. & D. No. 42136. Sample No. 17078–D.)

This product was heavily infested with aphids.

On April 6, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,049 bushel baskets of fresh spinach at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about April 4, 1938, from Norfolk, Va., by Upton Produce Co. and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 6, 1938, Upton Produce Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28849. Misbranding of canned tomatoes. U. S. v. 310 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40956. Sample No. 47554–C.)

This product fell below the standard for tomatoes established by this Department since it consisted of tomatoes with puree from trimmings, and its label did not bear a statement of that fact.

On November 29, 1937, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 310 cases of canned tomatoes at Cleveland, Ohio, alleging that the article had been shipped in interstate commerce on or about October 13, 1937, from Point Isabel, Ind., by the Fettig Canning Corporation, Point Isabel, Ind., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maytime Brand Choice Quality Tomatoes * * * Merchants Grocery Co., Cleveland and Akron, O., Distributors."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture of such canned food, in that it consisted of tomatoes with puree from trimmings and did not bear the statement "tomatoes with puree from trimmings," and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On April 11, 1938, the Fettig Canning Corporation, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28850. Adulteration of frozen eggs. U. S. v. 247 Cans of Frozen Eggs. Consent decree of condemnation. Product released under bond for segregation of unadulterated portion. (F. & D. No. 41966. Sample No. 8108–D.)

Examination of this product showed the presence of decomposed eggs.

On or about March 17, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in

the district court a libel praying seizure and condemnation of 247 cans of frozen eggs at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about April 30, 1937, from Gale, Ill., by Mars, Inc., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "A Mars Product Milky Way Whole Eggs * * * Mars, Inc., * * * Chicago, Ill."

It was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On April 7, 1938, Mars, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that the unadulterated portion be segregated and the adulterated portion be destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28851. Adulteration of fig paste. U. S. v. 627 Cases of Fig Paste. Consent decree of condemnation. Product released under bond. (F. & D. No. 39870. Sample 35415–C.)

This product contained hydrocyanic acid in an amount which might have rendered it harmful to health.

On June 15, 1937, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 627 cases of fig paste at Davenport, Iowa, consigned by the Bonner Packing Co., alleging that the article had been shipped in interstate commerce on or about March 22, 1937, from Fresno, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Bonner Trade Mark B P Co., Adriatic Fig Paste Bonner Packing Co. Fresno, Calif."

It was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, hydrocyanic acid, which might have rendered it injurious to health.

On May 16, 1938, the Bonner Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be not disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28852. Adulteration of tomato and celery juice. U. S. v. 7 Cases of Tomato and Celery Juice. Default decree of condemnation and destruction. (F. & D. No. 41838. Sample No. 14885–D.)

This product was undergoing decomposition.

On or about March 9, 1938, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of tomato and celery juice at Havre, Mont., alleging that the article had been shipped in interstate commerce on or about March 12, 1936, from Ogden, Utah, in a pool car by the Utah Canning Co. for Blake & Co., Layton, Utah, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Celto Brand Tomato and Celery Juice * * * Packed for Blake and Blackinton, Ogden, Utah."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On April 15, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28853. Adulteration of tomato and celery juice. U. S. v. 28 Cases of Tomato and Celery Juice. Default decree of condemnation and destruction. (F. & D. No. 41757. Sample No. 14874–D.)

This product was undergoing decomposition.

On or about February 23, 1938, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of tomato and celery juice at Missoula, Mont., alleging that the article had been shipped in interstate commerce on or about January 2, 1936, from Layton, Utah, by Blake & Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Celto Brand Tomato and Celery Juice * * * Packed for Blake & Blackinton, Ogden, Utah."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid vegetable substance.

On April 1, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28854. Adulteration and misbranding of shelled peanuts. U. S. v. 240 Bags of Shelled Peanuts. Consent decree of condemnation. Product released under bond. (F. & D. No. 42153. Sample No. 9892–D.)

These peanuts were dirty.

On April 9, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 240 bags of shelled peanuts at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about March 12, 1938, from Courtland, Va., by Birdsong Sons Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Misbranding was alleged in that the statement "No. 2," borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to Virginia shelled peanuts which contained damaged (dirty) kernels in excess of the tolerance permitted in U. S. No. 2 grade.

On April 28, 1938, Birdsong Storage Co., Suffolk, Va., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28855. Misbranding of hot sauce. U. S. v. 100 Cartons, 25 Cases, and 20 Cases of Hot Sauce. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 41853, 41976. Sample Nos. 2749–D, 2750–D, 10120–D.)

This product was short weight.

On or about March 8, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 45 cases and 100 cartons of hot sauce at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about January 26 and 30, 1938, from Oakland, Calif., by F. M. Ball & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "All Good Spanish Style [or "Great Value"] Hot Sauce * * * F. M. Ball & Co., Oakland, Calif."; or "Favorite Spanish Style Hot Sauce Distributed by Quality Foods, Ltd., Tampa, Fla."

It was alleged to be misbranded in that the following statements borne on the labels, "Net Contents 8 Oz. or 227 Grams" and "Contents 8 Oz. or 227 Grams," were false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On April 25, 1938, the cases having been consolidated, and F. M. Ball & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28856. Adulteration and misbranding of butter. U. S. v. 15 Cases of Butter. Default decree of condemnation and destruction. (F. & D. No. 42011. Sample Nos. 16054–D, 16085–D.)

This product contained less than 80 percent of milk fat.

On March 8, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cases of butter at Baton Rouge, La., alleging that the article had been shipped in interstate commerce on or about January 20, 1938, from Paris, Tex., by Swift & Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "1 Pound Net Swift's Brookfield Butter * * * Distributed by Swift & Co., General Office Chicago."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

Misbranding was alleged in that the article was labeled "Butter," which was false and misleading since it contained less than 80 percent of milk fat.

On April 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28857. Misbranding of canned peas. U. S. v. 300 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40838. Sample No. 50334–C.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On November 19, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of canned peas at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about July 17 and 24, 1937, from Fredonia, Wis., by the Fredonia Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lady Clare Brand Sifted Early June Peas * * * Packed for M. Muskal, Chicago, Ill."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On January 6, 1938, judgment of condemnation was entered and on February 11, 1938, upon application of M. Muskal, claimant, the product was released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28858. Adulteration of Sausage Emulsifier, Soy Flour, and Soy Bean Grits. U. S. v. 193 Bags of Sausage Emulsifier, et al. Consent decree of condemnation. Product released under bond for conversion into stock feed. (F. & D. Nos. 41188, 41189, 41190. Sample Nos. 53233–C, 53234–C, 53235–C.)

These products were infested with insects.

On December 20, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 734 bags of the above named products at Fort Worth, Tex., alleging that the article had been shipped in interstate commerce on or about November 24, 1936, from Chicago, Ill., by Archer-Daniels-Midland Co., and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Packer's Pride Sausage Emulsifier * * * Ross & Rowe, Inc., Sole Distributors, New York Chicago"; "Archer Brand Grits [or "Apple Blossom Soy Four"] * * * Manufactured by Archer-Daniels-Midland Company, Minneapolis, Minn."

They were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances.

On February 22, 1938, Archer-Daniels-Midland Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be converted into stock feed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28859. Misbranding of canned cherries. U. S. v. 79 Cases of Canned Cherries. Consent decree ordering release of product under bond. (F. & D. No. 41809. Sample No. 15101–D.)

This product fell below the standard established by this Department since it contained an excessive number of pits and was not labeled to indicate that it was substandard.

On February 21, 1937, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 cases of canned cherries at Weiser, Idaho, alleging that the article had been shipped in interstate com-

merce on or about August 3 and September 30, 1937, from Seattle, Wash., by the Rogers Co., of Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Heep Full Brand Red Sour Pitted Cherries * * * Packed by Valley Fruit Canning Co., Puyallup, Wash."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 8, 1938, the Valley Fruit Canning Co., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28860. Adulteration of apples. U. S. v. 554 Crates of Apples. Consent decree of condemnation. Product released under bond for cleaning. (F. & D. No. 40692. Sample Nos. 59382–C, 59383–C.)

This product was contaminated with arsenic and lead.

On October 23, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 554 crates of apples at Blue Island, Ill., alleging that the article had been shipped in interstate commerce on or about October 19, 1937, from Sodus, Mich., by E. G. Sherman, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On November 3, 1937, E. G. Sherman, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that the apples be cleaned and the spray residue removed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28861. Adulteration of canned cherries. U. S. v. 47 Cases and 46 Cases of Canned Cherries. Default decrees of condemnation and destruction. (F. & D. Nos. 41926, 41927. Sample Nos. 7508–D, 7509–D, 14961–D.)

This product contained worms.

On March 11, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 93 cases of canned cherries at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about January 21, 1938, from Corvallis, Oreg., by Western Oregon Packing Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Ferndale brand) "Royal Anne Cherries, Wallace, Burton & Davis Co., Distributors, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28862. Misbranding of canned tomatoes. U. S. v. 390 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41298. Sample No. 66440–C.)

This product fell below the standard established by this Department because it was not normally colored and it bore an excessive amount of peeling, and it was not labeled to indicate that it was substandard.

On January 3, 1938, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 390 cases of canned tomatoes at Clarksburg, W. Va., alleging that the article had been shipped in interstate commerce on or about August 16, 1937, from Tucker Hill, Va., by W. H. Sanford, Tucker Hill, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Southern Leader Brand Tomatoes * * * Packed by W. H. Sanford, Tucker Hill, Va."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because it was not normally colored and the fruit was not peeled since the average amount of peel per pound of net content exceeded one square inch, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 18, 1938, W. H. Sanford, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28863. Misbranding of canned cherries. U. S. v. 61 Cases of Cherries. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 41669. Sample No. 67645–C.)

This product was packed in water and fell below the standard for fill of container established by this Department but was not labeled to indicate that it was substandard. It was also short weight.

On February 11, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 61 cases of canned cherries at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 3, 1937, from Frankfort, Mich., by the Elberta Packing Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Telmo Brand Red Sour Pitted Cherries * * * Distributed by Franklin MacVeagh & Co., Chicago."

It was alleged to be misbranded in that the statement on the label, "Contents 1 Lb. 5 Oz. Avd.," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct; and in that it was canned food and fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture for such canned food, since the cherries were packed in water and their drained weight was less than 13.5 ounces, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On April 28, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

M. L. Wilson, *Acting Secretary of Agriculture.*

28864. Misbranding of canned cherries. U. S. v. 16 Cases, 9 Cases, and 12 Cases of Canned Cherries. Consent decree ordering product released under bond. (F. & D. Nos. 41728, 41729. Sample Nos. 14871–D, 14872–D.)

This product was packed in water and the labels of two lots did not bear the statement prescribed by this Department. The other lot fell below the standard for fill of container established by this Department and was not labeled to indicate that it was substandard.

On or about February 2, 1938, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 cases of canned cherries at Wallace, Idaho, alleging that the article had been shipped in interstate commerce on various dates between November 17, 1937, and January 5, 1938, from Spokane, Wash., by the Roundup Grocery Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Falls Brand * * * Pitted Sour Cherries [or "High Tide Brand Red Sour Pitted Cherries"] Packed for Roundup Grocery Co., Spokane, Wash."

It was alleged to be misbranded in that it was canned food, and the 16-case and the 12-case lots fell below the standard of quality, condition, and fill of container, and the 9-case lot fell below the standard of fill of container, promulgated by the Secretary of Agriculture for such canned food, and its labels did not indicate that it fell below such standards.

On March 15, 1938, the Roundup Grocery Co., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28865. Adulteration and misbranding of macaroni products. U. S. v. 365 Cartons of Macaroni Products (and 3 similar seizure actions). Default decrees of condemnation. Products ordered delivered to charitable institutions. (F. & D. Nos. 41530, 41548, 41583 to 41587, incl., 41700 to 41721, incl. Sample Nos. 7467–D to 7470–D, incl., 7472–D, 7476–D to 7497–D, incl., 7869–D, 8066–D, 8067–D.)

These products contained added yellow coal-tar color, simulating the appearance of egg noodles containing more eggs than was the case. One of the lots was short weight.

On January 25 and 26 and February 4 and 17, 1938, the United States attorneys for the Southern District of New York and the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 892 cartons and boxes and a number of separate packages of macaroni products in various lots at Paterson and Hoboken, N. J., and New York, N. Y., alleging that the articles had been shipped in interstate commerce on various dates between December 13, 1937, and January 20, 1938, from Wilkes-Barre, Pa., by Blue Ribbon Noodle Co. Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part, variously: "Conquista Brand [or "Blue Ribbon" or "Long's Best"] Pure Egg Noodles * * * Blue Ribbon Noodle Co. Inc., Wilkes-Barre, Pa."; "Halperson's Brand * * * Pure Egg."

The articles were alleged to be adulterated in that they were colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements variously borne on the labels, "Pure Egg Noodles," "Canestro Pure Egg," "Pure Egg Noodles No artificial coloring," "Pure Egg No Coloring," and "Pure Egg Noodles No Coloring," were false and misleading and tended to deceive and mislead the purchaser when applied to articles containing added yellow coal-tar color—and, in the case of one lot—to articles deficient in eggs.

One of the lots was alleged to be misbranded further in that the statement, on the box, "Net Wt. 10 Lbs.," was false and misleading and tended to deceive and mislead the purchaser since the boxes contained less than 10 pounds; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously stated on the outside of the package since the quantity stated was not correct.

On various dates between February 23 and April 13, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

28866. Misbranding of canned peas. U. S. v. 465 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40230. Sample No. 44238–C.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate it was substandard.

On or about September 4, 1937, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 465 cases of canned peas at Columbia, S. C., alleging that the article had been shipped in interstate commerce on or about July 7, 1937, from Baltimore, Md., by J. Langrall & Bro., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maryland Chief Brand Early June Peas * * * Packed by J. Langrall & Bro. Inc., Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature and more than 25 percent of them were ruptured, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On October 13, 1937, J. Langrall & Bro. Inc., having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28867. Misbranding of canned peas. U. S. v. 150 Cases of Canned Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41273. Sample No. 57531–C.)

This product fell below the standard established by this Department because the peas were not immature and they contained excessive foreign material, and it was not labeled to indicate it was substandard.

On December 28, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 cases of canned peas at Bristol, Conn., alleging that the article had been shipped in interstate commerce on or about August 25, 1937, from Denton, Md., by Phillips Sales Co., Inc., per Nuttle Canning Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Nuttle Brand Early June Peas * * * Packed by Nuttle Canning Co., Denton, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature and contained excess foreign material, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 23, 1938, Phillips Sales Co., Inc., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28868. Misbranding of potatoes. U. S. v. 400 Bags of Potatoes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41848. Sample No. 16807–D.)

This product was labeled both U. S. grade No. 1 and Commercial grade, but bore defects in excess of the tolerance set up in the standards established by this Department for both grades.

On February 28, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 bags of potatoes at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about February 22, 1938, from Kingman, Maine, by W. H. Martin, of Bangor, Maine, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statements "U. S. 1" and "Commercial" were false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. grade No. 1, and failed to meet the standard for Commercial grade.

On March 7, 1938, W. H. Martin, claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28869. Misbranding of canned peas. U. S. v. 998 Cases of Canned Peas. Consent decree releasing product under bond for relabeling. (F. & D. No. 41855. Sample No. 16924–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On March 2, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 998 cases of canned peas at Richmond, Va., alleging that the article had been shipped in interstate commerce on or about February 7, 1938, from Girdletree, Md., by Burton Proctor & Son, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that such canned food fell below such standard.

On March 7, 1938, W. T. Onley Canning Co., Snow Hill, Md., claimant, having consented to the entry of a decree, the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28870. Adulteration of candy. U. S. v. 19 Boxes of Fig Bars. Default decree of condemnation and destruction. (F. & D. No. 41813. Sample No. 2019–D.)

This product contained rodent hairs, insect fragments, and dirt.

On February 21, 1938, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 boxes of candy fig bars at Canton, Ohio, alleging that the article had been shipped in interstate commerce on or about January 10, 1938, from Chicago, Ill., by Dante Candy Co., of Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dante's Doctor's Orders * * * Fig Bars * * * Dante Candy Co., Inc., Chicago, Ill."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 11, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28871. Misbranding of potatoes. U. S. v. 360 Sacks of Potatoes. Consent decree of condemnation. Product released under bond for removal of tags. (F. & D. No. 42120. Sample No. 16811–D.)

This product was represented to be U. S. Commercial grade but fell below that grade because of excessive defects.

On April 1, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 360 sacks of potatoes at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 26, 1938, from Rosholt, Wis., by Alois Firkus and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Firkus Brand Alois Firkus, Stevens Point, Wisconsin."

The article was alleged to be misbranded in that the statement "U. S. Commercial" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes that were below U. S. Commercial grade.

On April 4, 1938, Alois Firkus, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that its tags be removed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28872. Adulteration of butter. U. S. v. 3 Cubes of Butter. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 42041. Sample No. 18462–D.)

This product contained less than 80 percent of milk fat.

On March 14, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cubes of butter at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about June 29, 1937, from Plainview, Tex., by Plainview Cooperative Creamery, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 5, 1938, no claimant having appeared, judgment of condemnation was entered, and on April 12, 1938, the product was ordered delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

28873. Adulteration of butter. U. S. v. 105 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42245. Sample No. 21714–D.)

This product contained less than 80 percent of milk fat.

On April 6, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 105 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 23 and 26, 1938, from Aurora, Mo., by O. E. Moore, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 19, 1938, Dauber Bros., claimant, having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked.

M. L. WILSON, *Acting Secretary of Agriculture.*

28874. Adulteration of canned peas. U. S. v. 129 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. No. 41654. Sample No. 1593–D.)

Examination of this product showed the presence of decomposed peas.

On February 8, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 129 cases of canned peas at Atlantic City, N. J., alleging that the article had been shipped in interstate commerce on or about June 24, 1937, from Aberdeen, Md., by C. W. Baker & Sons, for Lineboro Canning Co., Lineboro, Pa., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baker's Brand Early June Peas * * * Distributors C. W. Baker & Sons, Aberdeen, Md."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On April 4, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28875. Adulteration of butter. U. S. v. 27 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42427. Sample Nos. 21739–D, 21740–D.)

This product contained less than 80 percent of milk fat.

On April 27, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about April 14, 1938, from Marshall, Mo., by Page Milk Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 27, 1938, S. S. Borden Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked.

M. L. WILSON, *Acting Secretary of Agriculture.*

28876. Adulteration of butter. U. S. v. 13 Tubs of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. No. 42171. Sample No. 14145–D.)

This product was deficient in milk fat.

On March 30, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 tubs of butter at Boston, Mass., consigned on or about March 22, 1938, alleging that the article had been shipped in interstate commerce by Land O'Lakes Creameries, Inc., from Minneapolis, Minn., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, which it purported to be.

On April 14, 1938, Land O'Lakes Creameries, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the

product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

28877. Adulteration and misbranding of butter cookies. U. S. v. 245 Dozen Packages of Butter Cookies. Decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 42194. Sample No. 14175–D.)

These so-called butter cookies contained no butter, and the packages were not properly labeled to indicate the quantity of contents.

On April 14, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 245 dozen packages of cookies at Cambridge, Mass., alleging that the article had been shipped in interstate commerce on or about April 6, 1938, by Felber Biscuit Co. from Columbus, Ohio, and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled: "Pennant Butter Cookies Contents 42 Cookies The Felber Biscuit Company, Columbus."

The article was alleged to be adulterated in that a substance which contained no butter had been substituted in whole or in part for a product which purported to be a butter cooky.

It was alleged to be misbranded in that the statement "Butter Cookies" was false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained no butter; and in that it was offered for sale under the distinctive name of another article, namely, "Butter Cookies." It was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement "Contents 42 Cookies" did not give an accurate idea of the quantity in the package.

On April 18, 1938, the Felber Biscuit Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of this Department so as to describe the true nature and quantity of contents.

M. L. WILSON, *Acting Secretary of Agriculture.*

28878. Adulteration of fish roe. U. S. v. 4 Kegs of Fish Roe, et al. Default decree of condemnation and destruction. (F. & D. Nos. 42053 to 42064, incl. Sample Nos. 12201–D to 12212–D, incl.)

This product contained parasitic worms and fish scales.

On March 28, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 103 kegs and 4½ barrels of fish roe at New York, N. Y., alleging that the article had been shipped between March 1, 1937, and March 10, 1938, by various Wisconsin and Michigan shippers, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28879. Adulteration of potatoes. U. S. v. 399 Sacks and 228 Sacks of Potatoes. Default decrees of condemnation and destruction. (F. & D. Nos. 41932, 41944. Sample Nos. 16152–D, 16153–D.)

These potatoes were seriously damaged by net necrosis.

On March 11, 1938, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 627 sacks of potatoes at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about February 19, 1938, from Charlestown, Mass., by Roy G. Spark, Inc., Produce Market, of Charlestown, Mass., and charging adulteration in violation of the Food and Drugs Act. A portion was labeled: "Packed By A. E. Mooers Houlton Maine."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On April 20, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28880. Adulteration of butter. U. S. v. 57 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42244. Sample Nos. 8116–D, 8118–D.)

This product contained less than 80 percent of milk fat.

On April 14, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 57 tubs of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 31, 1938, from San Antonio, Tex., by Mission Provision Co., Inc., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which contains not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 26, 1938, Mission Provision Co., Inc., San Antonio, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. Wilson, *Acting Secretary of Agriculture.*

28881. Misbranding of canned peas. U. S. v. 10,080 Cans of Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41868. Sample No. 9639–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On March 4, 1938, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10,080 cans of peas at New Cumberland, Pa., alleging that the article had been shipped in interstate commerce on or about January 10, 11, and 12, 1938, from Baltimore, Md., by the H. L. Piel Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Severn Brand * * * Early June Peas * * * The H. L. Piel Co. Distributors Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 11, 1938, the H. L. Piel Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. Wilson, *Acting Secretary of Agriculture.*

28882. Adulteration of chocolate-coated eclairs. U. S. v. Dutch Baker Boy, Inc., and John W. Kauffman. Pleas of guilty. Fine, $200 each, payment of which was suspended. (F. & D. No. 40781. Sample Nos. 57839–C, 57840–C, 57841–C.)

This product contained hemolytic *Staphylococcus aureus* organisms capable of causing food poisoning, fecal *Bacillus coli*, and a large number of other bacteria.

On March 10, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Dutch Baker Boy, Inc., Washington, D. C., and John W. Kauffman, an agent of the corporation, alleging that on or about September 22, 1937, the defendants manufactured in the District of Columbia a quantity of chocolate eclairs; and that on or about September 23, 1937, they shipped from the District of Columbia into the State of Maryland a quantity of chocolate-coated eclairs; and charging that said product so manufactured and shipped was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous and deleterious ingredient which might have rendered it injurious to health, namely, *Staphylococcus aureus;* in that it consisted in part of filthy substances, namely, fecal *Bacillus coli* and numerous spore-bearing bacilli; and in that it consisted wholly of a filthy substance, namely, a mixture of various materials which was polluted throughout by fecal *B. coli* and numerous spore-bearing bacilli.

On March 10, 1938, pleas of guilty were entered by the defendants and they were sentenced to pay fines of $200 each, execution of sentence being suspended.

M. L. Wilson, *Acting Secretary of Agriculture.*

28883. Adulteration of walnut meats. U. S. v. 13 Cartons and 13 Cases of Walnut Meats. Default decrees of condemnation and destruction. (F. & D. Nos. 41032, 41807. Sample Nos. 60580–C, 14881–D.)

Samples of this product were found to be infested with worms and insects.

On December 8, 1937, and February 23, 1938, the United States attorney for the Districts of Utah and Montana, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 13 cartons of walnut meats at Salt Lake City, Utah, and 13 cases of the product at Great Falls, Mont., alleging that the article had been shipped in interstate commerce on or about November 3, 1937, and January 24, 1938, from Los Angeles, Calif., by the Los Angeles Nut House, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On January 29 and April 15, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28884. Adulteration of butter. U. S. v. Corbett Ice Cream Company of Wyoming. Plea of guilty. Fine, $50. (F. & D. No. 40812. Sample No. 48011–C.)

This product contained less than 80 percent of milk fat.

On April 25, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Corbett Ice Cream Company of Wyoming, a corporation, Cheyenne, Wyo., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 21, 1937, from the State of Wyoming into the State of Colorado of a quantity of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as prescribed by the act of March 4, 1923.

On April 28, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

28885. Adulteration of candy. U. S. v. 4 Boxes, 17 Boxes, and 8 Boxes of Nutty-Fruit Rolls. Default decrees of condemnation and destruction. (F. & D. Nos. 41954, 41957, 41958. Sample Nos. 9616–D, 10500–D, 11779–D.)

This product contained rodent hairs and insect fragments.

On March 12, 1938, the United States attorneys for the Eastern District of Pennsylvania and the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 29 boxes of candy rolls, in various lots at Philadelphia, Pa., and South River, N. J., alleging that the article had been shipped in interstate commerce on or about February 11, 14, and 18, 1938, from Brooklyn, N. Y., by Bonomo Candy & Nut Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Bonomo Candy and Nut Corp., Brooklyn, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 4 and 14, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28886. Adulteration of candy. U. S. v. 6 Boxes of Fudge (and 8 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41482, 41531, 41543, 41547, 41552, 41589, 41590, 41591, 41592. Sample Nos. 365–D, 473–D, 1009–D, 1059–D, 1325–D, 1574–D, 1842–D, 2082–D, 7591–D.)

Samples of this product were found to contain rodent hairs, rodent excreta, and miscellaneous filth.

On various dates between January 20 and March 3, 1938, nine United States attorneys, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 306 boxes of candy in various lots at Cleveland, Ohio.; Sheboygan, Wis.; Los Angeles,

Calif.; Burlington, Vt.; Cumberland, Md.; Milton and Pittsburgh, Pa.; Portland, Oreg.; and Stamford, Conn. The libels alleged that the article had been shipped in interstate commerce on various dates between December 9, 1937, and January 4, 1938, from Chicago, Ill., or Hammond, Ind., by Queen Anne Candy Co.; and charged adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Queen Anne Candy Co., Hammond, Ind."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On various dates between February 25 and April 27, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28887. Adulteration of butter. U. S. v. 24 Tubs of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. No. 42126. Sample No. 14219–D.)

This product was deficient in milk fat.

On March 24, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 tubs of butter at Somerville, Mass., consigned on or about March 18, 1938, alleging that the article had been shipped in interstate commerce by the Northwest Dairy Forwarding Co. from St. Paul, Minn., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, which it purported to be.

On April 11, 1938, the Alexandria Cooperative Creamery Association, Alexandria, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. Wilson, *Acting Secretary of Agriculture.*

28888. Adulteration of canned stringless beans. U. S. v. 423 Cases, 313 Cases, and 48 Cases of Canned Stringless Beans. Tried to the court. Judgment for the Government. Decree of condemnation with provision for release under bond for salvaging good portion. (F. & D. Nos. 39128, 39129, 39130. Sample Nos. 5051–C to 5054–C, incl.)

This product was in part decomposed.

On February 24, 1937, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 784 cases of canned stringless beans at Memphis, Tenn., alleging that the article had been shipped in interstate commerce on or about January 31, 1937, from Canal Point, Fla., by B. Frank Craddock Canning Co., Inc., and charging adulteration in violation of the Food and Drugs Act. Portions were labeled: "Okeena Club Brand Extra Quality Green Beans [or "Tip Top Brand Cut Stringless Beans"] * * * Packed by Dyersburg Canning Co. Dyersburg, Tenn." The remainder was labeled: "Palm Beach Gardens Brand Cut Stringless Green Beans * * * Distributors Sunpure Products Co. Thomasville, Georgia."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On March 4, 1938, B. Frank Craddock Canning Co., having appeared as claimant and a jury having been waived, the case was tried to the court. At the completion of evidence which was introduced on behalf of the Government and the claimant, judgment was entered for the Government. On March 5, 1938, a decree of condemnation was entered, and the product was ordered released under bond conditioned that the good portion be segregated from the bad and the latter destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28889. Adulteration and misbranding of tomato puree and tomato paste. U. S. v. 95 Cases of Tomato Puree, et al. Consent decree of condemnation with provision for release of certain lots under bond for relabeling. Default decree ordering remaining lot sold. (F. & D. Nos. 40360, 40361, 40362. Sample Nos. 53655–C, 53656–C, 53657–C.)

These products were deficient in tomato solids.

On September 24, 1937, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 135 cases of tomato

puree and 23 cases of tomato paste at Mobile, Ala., alleging that the articles had been shipped in interstate commerce from New Orleans, La., one lot on or about February 13, 1937, by the Taormina Corporation, and the other lots on or about August 5, 1937, by the Uddo Taormina Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled variously: "Baby Brand * * * Tomato Puree * * * Packed by Uddo Taormina Corp. New Orleans, La."; "Rosa Brand * * * Tomato Paste Distributed by Uddo Taormina Corp., New Orleans, La."; "Buffalo Brand Tomato Puree * * * Packed by Taormina Corp. New Orleans."

The articles were alleged to be adulterated in that substances deficient in tomato solids had been substituted for tomato puree or tomato paste, which they purported to be.

They were alleged to be misbranded in that the statements "Tomato Puree * * * Puree di Pomidoro" and "Tomato Paste * * * Salsa di Pomidoro," appearing on their respective labels, were false and misleading and tended to deceive and mislead the purchaser when applied to articles deficient in tomato solids.

On October 29, 1937, the Uddo Taormina Corporation, claimant for the Rosa brand tomato paste and the Baby brand tomato puree, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the said products were ordered released under bond conditioned that they be relabeled. On December 15, 1937, no claimant having appeared for the Buffalo brand tomato puree, it was ordered sold on condition that it be relabeled if purchased for resale.

M. L. Wilson, *Acting Secretary of Agriculture.*

28890. Misbranding of olive oil. U. S. v. 3 Cases of Olive Oil. Product adjudged misbranded and ordered delivered to a welfare organization. (F. & D. No. 41907. Sample No. 11551–D.)

This product was short of the declared volume.

On March 8, 1938, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three cases of olive oil at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about January 3, 1938, by Parodi, Erminio & Co. from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Virgin Olive Oil * * * Packed For G. Simi. Parodi, Erminio and Co., Inc., Distributors, San Francisco, Calif."

It was alleged to be misbranded in that the statement borne on the label, "Net Contents One Quart," was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short volume. It was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On April 30, 1938, no claimant having appeared, adjudication of misbranding was entered and the product was ordered delivered to a welfare organization.

M. L. Wilson, *Acting Secretary of Agriculture.*

28891. Adulteration of dried peaches. U. S. v. 39 Boxes of Peaches. Default decree of condemnation and destruction. (F. & D. No. 41574. Sample No. 446–D.)

This product was worm-infested.

On February 2, 1938, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 39 boxes of dried peaches at Fort George Wright, Wash., alleging that the article had been shipped in interstate commerce on or about December 16, 1937, by Jacobson Shealy from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "California Peaches Jacobson Shealy San Francisco Cal."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 5, 1938, no claimant having appeared, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. Wilson, *Acting Secretary of Agriculture.*

28892. Misbranding of canned salmon. U. S. v. 24 Cartons of Canned Salmon. Default decree of condemnation and destruction. (F. & D. No. 41685. Sample No. 15144–D.)

Samples of this product were found to be pale and water-marked, and in addition were either soft or poorly filled.

On February 14, 1938, the United States attorney for the District of Idaho acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cartons of canned salmon at Twin Falls, Idaho, alleging that the article had been shipped in interstate commerce on or about September 13, 1937, by the Washington Fish & Oyster Co. from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Sea Cap Brand Selected Pink Salmon * * * Packed for Fine Foods Inc. Seattle Minneapolis."

It was alleged to be misbranded in that the statement "Selected Pink Salmon" was false and misleading and tended to deceive and mislead the purchaser when applied to pink salmon of poor quality.

On April 2, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28893. Adulteration of prunes. U. S. v. 318 Bags, 328 Bags, and 407 Bags of Dried Prunes. Default decree of condemnation and destruction. (F. & D. Nos. 41820, 41821, 41822. Sample Nos. 2761–D, 2974–D, 2975–D.)

This product was insect-infested, moldy, and dirty.

On February 26 and February 28, 1938, the United States attorneys for the Southern and Eastern Districts of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 1,053 bags of prunes in various lots at New York and Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 3 and 26, 1938, by the Pacific Prune Products Association from San Francisco, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "For Manufacturing Purposes Only."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 17 and 31, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28894. Adulteration of butter. U. S. v. Harding Cream Co. Plea of guilty. Fine, $40 and costs. (F. & D. No. 40798. Sample Nos. 54761–C, 54769–C.)

This product contained less than 80 percent of milk fat.

On April 14, 1938, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Harding Cream Co., a corporation, alleging shipment by said defendant in violation of the Food and Drugs Act on or about September 23 and 30, 1937, from the State of Nebraska into the State of Massachusetts of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as prescribed by the act of March 4, 1923.

On April 20, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $40 and costs.

M. L. Wilson, *Acting Secretary of Agriculture.*

28895. Adulteration of butter. U. S. v. Spring Valley Butter Co. Plea of nolo contendere. Fine, $50. (F. & D. No. 40802. Sample Nos. 34071–C, 37686–C.)

This product contained less than 80 percent of milk fat.

On April 21, 1938, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Spring Valley Butter Co., a corporation, Kansas City, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 20 and 22, 1937, from the State of Missouri into the States of Illinois and New Jersey of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a

product which should contain not less than 80 percent of milk fat as prescribed by the act of March 4, 1923.

On April 26, 1938, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

28896. Adulteration and misbranding of butter. U. S. v. 10 Boxes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42095. Sample Nos. 9806–D, 19218–D.)

This product contained less than 80 percent of milk fat.

On March 24, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 boxes of butter at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about March 18, 1938, from St. Paul, Minn., by the Northwest Dairy Forwarding Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cremoland Sweet Cream Butter A Product of Farmers Cooperative Creameries * * * Zenith-Godley Co."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Misbranding was alleged in that the word "Butter," appearing on the boxes, was false and misleading and tended to deceive the purchaser when applied to a product containing less than 80 percent of milk fat.

On April 1, 1938, the Zenith-Godley Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28897. Adulteration of butter. U. S. v. 10 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42094. Sample No. 8510–D.)

This product contained less than 80 percent of milk fat.

On March 15, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 3, 1938, from West Salem, Wis., by Barre Mills Cooperative Creamery Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On March 15, 1938, C. H. Weaver & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked.

M. L. Wilson, *Acting Secretary of Agriculture.*

28898. Adulteration of canned peas. U. S. v. 22 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. No. 41949. Sample No. 1870–D.)

Examination of this product showed the presence of decomposed peas.

On March 11, 1938, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 cases of canned peas at Lorain, Ohio, alleging that the article had been shipped in interstate commerce on or about January 25, 1938, from Lineboro, Md., by Lineboro Canning Co., Inc., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taste Best Brand Early June Peas * * * Packed by Lineboro Canning Co., Inc., Lineboro, Md."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On April 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28899. Misbranding of canned peas. U. S. v. 654 Cartons of Canned Peas. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41874. Sample No. 17045-D.)

This product fell below the standard established by this Department since the peas were not immature, and it was not labeled to indicate that it was substandard. Moreover, its labeling bore a false and misleading statement regarding the variety of the peas.

On March 4, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 654 cartons of canned peas at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 11, 1938, from Rehoboth, Del., by Stokely Bros. & Co., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "American Wonder Brand Select Early June Peas * * * Fame Canning Company, * * * Indianapolis, Ind."

It was alleged to be misbranded in that the statement borne on the label, "American Wonder," was false and misleading and tended to deceive and mislead the purchaser when applied to peas of another variety. It was alleged to be misbranded further in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 2, 1938, Howard E. Jones & Co., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28900. Adulteration of evaporated apples. U. S. v. 280 Boxes of Evaporated Apples. Decree of condemnation and destruction. (F. & D. Nos. 41563, 41564. Sample Nos. 116-D, 117-D.)

This product was worm-infested.

On February 1, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 280 boxes of evaporated apples at Denver, Colo., consigned by Claypool & Hazel, alleging that the article had been shipped in interstate commerce on or about October 9, 1937, from Springdale, Ark., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Morning Glory Brand Evaporated Apples. Packed By Claypool & Hazel, Springdale, Ark."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On February 11, 1938, Claypool & Hazel, having signed an acceptance of service and authorization, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28901. Misbranding of preserves. U. S. v. 309 Jars of Raspberry Preserves and 93 Jars of Strawberry Preserves. Default decree of condemnation and destruction. (F. & D. No. 37351. Sample Nos. 44145-B, 44148-B, 65850-B, 65851-B.)

Samples of these products were found to be short of the declared weight.

On March 11, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 309 jars of raspberry and 93 jars of strawberry preserves at Springfield, Mass., alleging that the articles had been shipped in interstate commerce on or about August 14 and November 22, 1935, by Sambo Dairy Products, Inc., from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Nessco Brand * * * Pure Raspberry Preserves Net

Weight 1 lb. [or "Strawberry Preserves Net Weight 2 Lbs."]. Distributed by New England Stores Service Corporation Boston, Worcester, Springfield."

The articles were alleged to be misbranded in that the statements on their respective labels "Net Weight 1 lb." and "Net Weight 2 Lbs.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight. They were alleged to be misbranded further in that they were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantities stated were not correct.

On April 6, 1938, the claim and answer of the Sambo Dairy Products, Inc., was withdrawn and on April 25, 1938, judgment of condemnation and forfeiture, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28902. Misbranding of canned tomatoes. U. S. v. 99 Cases of Canned Tomatoes. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41554. Sample No. 3107–D.)

This product fell below the standard established by this Department because the fruit did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On January 29, 1938, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of canned tomatoes at Portland, Oreg., alleging that the article had been shipped in interstate commerce on or about January 15, 1938, by California Conserving Co. from Oakland, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Alameda Brand Tomatoes with Puree from Trimmings * * * Packed by California Conserving Co. Incorporated San Francisco."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the fruit did not consist of whole or large pieces and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On April 11, 1938, the California Conserving Co., Inc., having appeared and having consented, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28903. Adulteration and misbranding of butter. U. S. v. 13 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 42013. Sample No. 3221–D.)

This product contained less than 80 percent of milk fat.

On March 8, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cubes of butter at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about February 26, 1938, from Salt Lake City, Utah, by the Western Creamery Co., of Salt Lake City, Utah, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled: "Butter * * *."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

Misbranding was alleged in that the article had been represented as butter, which was false and misleading and deceived the purchaser since it contained less than 80 percent of milk fat.

On April 19, 1938, the Western Creamery Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it not be disposed of contrary to law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28904. Adulteration and misbranding of butter. U. S. v. 33 Cartons of Butter. Consent decree of condemnation. Product released under bond for reworking and relabeling. (F. & D. No. 42243. Sample Nos. 9891–D, 19324–D.)

This product contained less than 80 percent of milk fat, and its label failed to declare the quantity of the contents.

On April 9, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 cartons of butter at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 25, 1938, from Harris, Minn., by the Harris Creamery Co. to Philadelphia, Pa., and had been reshipped on or about April 1, 1938, from Philadelphia, Pa., by Zenith-Godley Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Distributed by American Stores Co., Philadelphia, Pa., Louella Registered Brand Sweet Cream Butter * * * Zenith-Godley Co. * * * Philadelphia, Pa."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

The article was alleged to be misbranded in that it was labeled "butter," which was false and misleading since it contained less than 80 percent of milk fat; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 21, 1938, Zenith-Godley Co., Inc., agent for Harris Cooperative Creamery Co., of Harris, Minn., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat and relabeled to show the quantity of the contents of the containers.

M. L. Wilson, *Acting Secretary of Agriculture.*

28905. Adulteration of butter. U. S. v. 14 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 42168. Sample No. 8519–D.)

This product contained less than 80 percent of milk fat.

On March 21, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about March 13, 1938, from Plainfield, Iowa, by the Plainfield Creamery and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On April 5, 1938, Dittmann & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked.

M. L. Wilson, *Acting Secretary of Agriculture.*

28906. Misbranding of chicken ravioli. U. S. v. 14 Cases and 42 Cans of Chicken Ravioli. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 41985. Sample No. 3282–D.)

This product was short weight.

On March 17, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 14 cases and 42 cans of chicken ravioli at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about March 1, 1938, by Delray Corporation, from San Francisco, Calif., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chicken Ravioli * * * Net Weight 1 Lb. Giffi Foods Corporation San Francisco California."

The article was alleged to be misbranded in that the statement "Net Weight 1 lb." was false and misleading and tended to deceive and mislead the purchaser

when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On April 8, 1938, the Delray Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28907. Adulteration of scallops. U. S. v. 42 Gallons of Scallops. Default decree of condemnation and destruction. (F. & D. No. 42096. Sample No. 12223–D.)

This product contained added water.

On March 24, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 gallons of scallops at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 19, 1938, by Fort Myers Seafood Co. from Fort Myers, Fla., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance, water, had been mixed and packed with and substituted in part for scallops.

On April 23, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28908. Misbranding of butter. U. S. v. 7 Cases of Butter. Consent decree of condemnation. Product released under bond for relabeling or repacking. (F. & D. No. 41152. Sample No. 60658–C.)

This product was short weight.

On January 7, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of butter at Parco, Wyo., alleging that the article had been shipped in interstate commerce on or about November 8, 1937, from Denver, Colo., by the Rhodes Ranch Egg Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Case) "From the Rhodes Ranch Egg Company * * * 32 Lbs. Net * * * Plain Quarters Lb. Prints in 1 Lb. Cartons"; (wrapper) "4 Oz. Net Weight."

The libel alleged that the article was misbranded in that the labels on the case and wrapper were false and misleading since the prints did not contain 4 ounces net weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 16, 1938, the Rhodes Ranch Egg Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be repacked or relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28909. Adulteration and misbranding of sliced seedling. U. S. v. 50 Cartons of Sliced Seedling. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41565. Sample No. 45053–C.)

This product was sliced apricot or peach kernels; but was represented to be sliced seedling, a term referring to sliced almonds and other nuts but not to apricot or peach kernels.

On January 31, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cartons of sliced seedling at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about December 14, 1937, by Bashaw & Co. from Sacramento, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Sliced Seedling * * * Bashaw Co. * * * San Francisco, Cal."

It was alleged to be adulterated in that apricot or peach kernels had been substituted for "sliced seedling," a term referring to sliced almonds or other nuts but not to apricot or peach kernels.

It was alleged that the article was misbranded in that the statement "sliced seedling" was false and misleading and deceived and misled the purchaser when applied to apricot or peach kernels.

On March 9, 1938, Bashaw Co., having appeared and admitted the allegations and consented, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled "Sliced Apricot Kernels."

M. L. WILSON, *Acting Secretary of Agriculture.*

28910. Adulteration and misbranding of potatoes. U. S. v. 100 Bags of Potatoes. Default decree of condemnation and destruction. (F. & D. No. 42167. Sample No. 14174–D.)

These potatoes were seriously damaged by net necrosis and were below the grade declared on the label.

On April 11, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 bags of potatoes at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about April 7, 1938, from Bangor, Maine, by Leech & Ayer, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Maine Potatoes Grade U. S. No. 1, P. Armstrong Ft. Fairfield."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

Misbranding was alleged in that the statement "U. S. Grade No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below United States grade No. 1.

On April 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28911. Adulteration and misbranding of peanut butter. U. S. v. 41 Cases of Peanut Butter. Default decree of condemnation and destruction. (F. & D. No. 41928. Sample No. 16129–D.)

This product was short of the declared weight, and some of the samples examined contained ants.

On March 11, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 cases of peanut butter at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about September 14, 1937, by the Dothan Oil Mill Co., from Dothan, Ala., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Net Weight 16 Ozs. Domco Fine Quality Peanut Butter Made by Dothan Oil Mill Co. Dothan, Ala."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

It was alleged to be misbranded in that the statement "Net Wt 16 Ozs" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28912. Misbranding of canned peas. U. S. v. 56 Cases of Canned Peas. Default decree of condemnation and destruction. (F. & D. No. 41968. Sample No. 11778–D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On March 16, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 cases of canned peas at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about February 25, 1938, from Thurmont, Md., by Frederick

City Packing Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Arctic Brand Early June Peas * * * Packed for Frederick City Packing Co. Frederick, Maryland."

It was alleged to be misbranded in that it was substandard, more than 25 percent of the peas being ruptured.

On April 14, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28913. Misbranding of canned cherries. U. S. v. 408 Cases of Canned Cherries. Decree of condemnation and forfeiture. Product ordered released under bond for relabeling. (F. & D. No. 41501. Sample No. 2610–D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On or about January 26, 1938, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 408 cases of red pitted cherries at Lawton, Okla., alleging that the article had been shipped in interstate commerce on or about August 5, 1937, by H. C. Hemingway & Co. from Lockport, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schuyler Pitted Red Cherries in Water Distributed By H. C. Hemingway & Co. Auburn N. Y."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it contained more than 1 cherry pit per 20 ounces of net contents, and the label on the package did not bear a plain and conspicuous statement, as prescribed by the Secretary of Agriculture, to the effect that it fell below such standard.

On February 1, 1938, H. C. Hemingway & Co., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28914. Adulteration of canned clams. U. S. v. 7 Cases of Canned Clams. Default decree of condemnation and destruction. (F. & D. No. 41498. Sample No. 964–D.)

This product was sour and decomposed.

On January 24, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of canned clams at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about October 29, 1937, by Brown & Hart Packing Co. from Millbridge, Maine, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "B & H Brand Fancy Clams * * * Packed By Brown & Hart Packing Co. Millbridge, Maine."

It was alleged that the article was adulterated in that it consisted in whole or in part of a decomposed animal substance.

On February 23, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28915. Adulteration of whitefish. U. S. v. 3 Boxes of Whitefish. Default decree of condemnation and destruction. (F. & D. No. 41505. Sample No. 288–D.)

This product was infested with parasitic worms.

On January 21, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three boxes of whitefish at Los Angeles, Calif., alleging that the article had been shipped on or about January 13, 1938, by Selkirk Fish Co. from Winnipeg, Canada, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On February 25, 1938, no claimant having appeared, judgment of condemnation, with order of destruction, was entered.

M. L. WILSON, *Acting Secretary of Agriculture.*

28916. Adulteration of Mexican corn chips. U. S. v. 24 Cases and 325 Cases of Tostadas. Default decrees of condemnation and destruction. (F. & D. Nos. 41445, 41446. Sample Nos. 48985–C, 48986–C.)

This product was rancid.

On January 17, 1938, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 349 cases of Tostadas at St. Louis, Mo., alleging that the article had been shipped in interstate commerce in various shipments on or about May 15, June 10, and July 20, 1937, by the Tostadas Corporation from Brooklyn, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Tostadas * * * The Original Mexican Corn Chip * * * Tostadas Corporation * * * Brooklyn, New York."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On March 31 and April 19, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28917. Adulteration of fresh spinach. U. S. v. 753 Baskets of Fresh Spinach (and three similar seizure actions). Consent decrees of condemnation and destruction. (F. & D. Nos. 42195, 42199, 42200, 42201. Sample Nos. 17127–D to 17130–D, incl.)

This product was heavily infested with aphids.

On April 13 and 14, 1938, the United States attorney for the District of Maryland, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 2,281 baskets of fresh spinach at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about April 12, 1938, from Norfolk, Va., by Eugene L. Duvall, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 14, 1938, Eugene L. Duvall, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28918. Adulteration and misbranding of corn and olive oil. U. S. v. 84 Cans of Corn Oil and Olive Oil. Default decree of condemnation and destruction. (F. & D. No. 40288. Sample No. 56531–C.)

This product was represented to be corn and olive oil, but it consisted essentially of cottonseed oil and was artificially colored.

On September 14, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 84 cans of alleged corn and olive oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about November 27, 1936, and May 5, 1937, from New York, N. Y., by the Import Oil Corporation, and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Corn Oil and Olive Oil La Deliziosa Brand * * * Delizia Sales Co. New York, N. Y."

It was alleged to be adulterated in that cottonseed oil had been substituted in whole or in part for corn oil and olive oil, which it purported to be; and in that it was mixed and colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the name of the article, corn oil and olive oil, was false and misleading and tended to deceive and mislead the purchaser; in that the statements borne on the label, "Awarded Gold Medal and Cross of Merit * * * for Corn and Olive Oil" and "Premiato * * * Per Olii di Gran Turco E Olio D'Oliva," were misleading and tended to deceive and mislead the purchaser since they implied that the article was high quality corn and olive oil, whereas it was not high quality corn and olive oil but consisted of cottonseed oil and was artificially colored; and in that the statements, "Corn Oil and Olive Oil" and "Premiato * * * Per Olii di Gran Turco E Olio D'Oliva," were misleading and tended to deceive and mislead the purchaser since the article contained artificial coloring which was not declared. The article was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, corn oil and olive oil.

On April 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28919. Adulteration and misbranding of Lemmo. U. S. v. 10 Bottles of Lemmo. Default decree of condemnation and destruction. (F. & D. No. 42024. Sample No. 1822–D.)

This product consisted essentially of a mixture of mineral oil, citral, and lemon oil, having an appearance and flavor suggesting lemon oil.

On March 28, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 bottles of Lemmo at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about February 19, 1938, from Brooklyn, N. Y., by Virginia Dare Extract Co., Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Virginia Dare Lemmo * * * Virginia Dare Extract Co. Incorporated * * * Brooklyn, N. Y."

It was alleged to be adulterated in that mineral oil having no food value had been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; and in that a mixture of mineral oil, citral, and lemon oil had been substituted in whole or in part for citral, terpenes, aldehyde, and esters occurring naturally in lemon oil, which it purported to be.

Misbranding was alleged in that the statements borne on the label, "Lemmo substitute for Lemon Oil Prepared from Citral, terpenes, aldehyde and esters occurring naturally in lemon oil * * * Use as Lemon Oil," were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of mineral oil, citral, and lemon oil. The article was alleged to be misbranded further in that it was an imitation of and was offered for sale under the distinctive name of another article, lemon oil.

On April 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28920. Adulteration and misbranding of tomato catsup. U. S. v. 19 Cases of Tomato Catsup. Consent decree of condemnation and destruction. (F. & D. No. 41982. Sample No. 11356–D.)

This product contained approximately 2.4 percent of foreign starch.

On March 16, 1938, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 19 cases of tomato catsup at Muskogee, Okla., alleging that the article had been shipped in interstate commerce on or about February 24, 1938, from Rogers, Ark., by the Griffin Grocery Co. and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cherokee Maid Tomato Catsup * * * Packed by Griffin Manufacturing Co., Muskogee, Oklahoma."

It was alleged to be adulterated in that starch had been mixed and packed with it so as to reduce or lower its quality or strength; in that starch had been substituted in whole or in part for the article; and in that it was mixed in a maner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Tomato Catsup" was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing added starch.

On April 5, 1938, the Griffin Grocery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28921. Adulteration of canned mustard greens and canned turnip greens. U. S. v. 136 Cases of Mustard Greens (and three similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41941, 42038, 42050, 42051. Sample Nos. 1821–D, 1823–D, 1825–D, 1826–D.)

Samples of these products were found to contain worms, insects, and other filth.

On March 28, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court four libels praying seizure and condemnation of 481 cases of mustard greens and 197 cases of turnip greens at New Orleans, La., alleging that

the articles had been shipped in interstate commerce on various dates between November 14, 1936, and December 7, 1937, from Donna and Brownsville, Tex., by the Taormina Corporation, and charging adulteration in violation of the Food and Drugs Act. Portions were labeled: "Deer Brand Mustard [or "Turnip"] Greens * * * Packed for Uddo Taormina Corporation." The remainder was labeled: "Dubon Brand Mustard Greens * * * Distributed by Dubon Company, Inc. Wilmington, Del. [or "New Orleans, La."]."

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances.

On April 20 and 22, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28922. Adulteration of canned peas with snaps. U. S. v. 134 Cases of Canned Peas with Snaps (and 3 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41456, 41644, 41682, 41684. Sample Nos. 754–D, 761–D, 800–D, 10243–D.)

Samples of this product were found to be infested with weevils and other insects.

On or about January 22 and February 8, 12, and 15, 1938, the United States attorney for the Southern District of Florida and the Eastern and Western Districts of North Carolina, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 585 cases of canned peas with snaps in various lots at Jacksonville, Fla., and Charlotte and Fayetteville, N. C., alleging that the article had been shipped in interstate commerce on various dates between October 20 and December 1, 1937, from Charleston, S. C., by Shelmore Oyster Products Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crystal Bay Brand Fresh Field Peas with Snaps * * * Shelmore Oyster Products Co. Charleston, S. C."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 12, 18, and 25, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28923. Misbranding of canned cherries. U. S. v. 173 Cartons of Canned Cherries. Decree of condemnation. Product ordered released under bond for relabeling. (F. & D. No. 41485. Sample No. 29700–C.)

This product was substandard because it contained excessive pits and was not of standard fill, and it was not labeled to indicate that it was substandard.

On January 20, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 173 cartons of red sour pitted cherries at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about January 4, 1938, by Valley Fruit Canning Co. from Seattle, Wash., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Casco Brand * * * Red Sour Pitted Water Pack Cherries * * * California Supply Company Distributors San Francisco, California."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality, condition, and fill of container promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents and the cans were not of standard fill; and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On February 19, 1938, A. M. Beebe Co. having appeared as claimant, judgment of condemnation was entered, and the product was ordered released to claimant under bond conditioned that it be relabeled under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28924. Misbranding of canned cherries. U. S. v. 139 Cases and 31 Cases of Canned Cherries. Consent decrees of condemnation. Product released under bond for relabeling. (F. & D. Nos. 41279, 41759. Sample Nos. 30189–C, 11529–D.)

This product fell below the standard for fill of container established by this Department, but was not labeled to indicate that it was substandard.

On December 30, 1937, and February 28, 1938, the United States attorneys for the District of Nebraska and the District of Wyoming, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 139 cases of canned cherries at Scottsbluff, Nebr., and 31 cases of the product at Casper, Wyo., alleging that the article had been shipped in interstate commerce on or about August 30, 1937, from Roy, Utah, by Varney Canning Co., Inc., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Valley Home Brand Red Sour Pitted Cherries Packed in Water. Packed for Nash Finch Co. Minneapolis, Minn."

It was alleged to be misbranded in that it was canned food and fell below the standard for fill of container promulgated by the Secretary of Agriculture for such canned food, and its label did not bear a plain and conspicuous statement indicating that such canned food fell below such standard.

On April 15 and 22, 1938, the Varney Canning Co. having appeared as claimant and having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28925. Adulteration of canned salmon. U. S. v. Hydaburg Fisheries, Inc. Plea of guilty. Fine, $200 and costs. (F. & D. No. 39464. Sample Nos. 23629–C, 23677–C, 23688–C, 23712–C, 29282–C.)

This product was in whole or in part decomposed.

On June 14, 1937, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Hydaburg Fisheries, Inc., Seattle, Wash., alleging shipment by said defendant in violation of the Food and Drugs Act on or about September 6 and August 26, 1936, from the Territory of Alaska into the State of Washington of quantities of canned salmon which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 4, 1938, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $200 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

28926. Adulteration and misbranding of potatoes. U. S. v. 400 Sacks of Potatoes. Consent decree of condemnation. Product released under bond for destruction of adulterated portion and relabeling of remainder. (F. & D. No. 41942. Sample No. 16810–D.)

One of these two lots of potatoes was seriously damaged by net necrosis, and both lots fell below their labeled grades because of excessive defects.

On or about March 11, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 400 sacks of potatoes at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about March 4, 1938, from Dover-Foxcroft, Maine, by M. A. Sanborn Co., and charging that a portion of them were adulterated and that all of them were misbranded in violation of the Food and Drugs Act.

The said portion was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

Misbranding was alleged in that the statements, "U. S. No. 1 Size B" and "U. S. Commercial," borne on the tags, were false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. grade No. 1 and U. S. Commercial, respectively.

On March 17, 1938, Melvin A. Sanborn of Dover-Foxcroft, Maine, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the potatoes tagged "U. S. No. 1 Size B" be relabeled, and that the potatoes tagged "U. S. Commercial" be destroyed or sold as animal food.

M. L. WILSON, *Acting Secretary of Agriculture.*

28927. Adulteration of butter. U. S. v. Albany Creamery Association. Plea of guilty. Fine, $100. (F. & D. No. 39849. Sample Nos. 39366–C, 39490–C.)

This product contained less than 80 percent by weight of milk fat.

On December 16, 1937, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Albany Creamery Association, a corporation, Albany, Oreg., alleging shipment by said company in violation of the Food and Drugs Act on or about July 22 and 27, 1937, from the State of Oregon into the State of California of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a substance containing less than 80 percent by weight of milk fat had been substituted wholly for butter, a product which should contain not less than 80 percent of milk fat as provided for by the act of Congress of March 4, 1923, which it purported to be.

On December 30, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of $100.

M. L. Wilson, *Acting Secretary of Agriculture.*

28928. Adulteration of shelled peanuts. U. S. v. 250 Bags of Shelled Peanuts. Consent decree of condemnation and forfeiture. Product ordered released under bond conditioned that unfit nuts be denatured or destroyed. (F. & D. No. 40452. Sample Nos. 37742–C, 38252–C.)

These peanuts were in part wormy, moldy, and decomposed.

On October 7, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 bags of shelled peanuts at Jersey City, N. J., alleging that the article had been shipped in interstate commerce on or about July 15, 1937, by Edenton Peanut Co. from Edenton, N. C., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Edenton Peanut Co., Edenton, N. C. E–21 Tea Party Brand."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On March 10, 1938, Edenton Peanut Co. and Birdsong Sons Corporation, having appeared and filed a stipulation admitting the truth of the allegations of the libel and consenting, judgment of condemnation and forfeiture was entered. It was ordered that the peanuts be released under bond, conditioned that the good portion be separated from the bad and the latter denatured or destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28929. Misbranding of olive oil. U. S. v. 11 Cans of Alleged Olive Oil. Default decree ordering product delivered to charitable institutions. (F. & D. No. 41070. Sample No. 57521–C.)

This product was represented to be olive oil, whereas it was artificially colored and flavored cottonseed oil.

On December 10, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 cans of olive oil at Bridgeport, Conn., alleging that the article had been shipped in interstate commerce on or about November 12, 1937, from Brooklyn, N. Y., by C. Dispigno, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements and design were false and misleading and tended to deceive and mislead the purchaser since they represented that the article was olive oil and that it was a foreign product, whereas it was not olive oil and it was not a foreign product, but was an artificially colored and flavored domestic cottonseed oil: "Olio Di Oliva Vergine [design of olive branch bearing olives] Lucca * * * Prodotto Italiano * * * Questo Olio E Garantito Di Puro Oliva This Olive Oil is Guaranteed Pure"; "Imported from Italy." The article was alleged to be misbranded further in that it was an imitation of and was offered for sale under the distinctive name of another article, olive oil.

On May 11, 1938, no claimant having appeared, the product was ordered delivered to charitable institutions.

M. L. Wilson, *Acting Secretary of Agriculture.*

28930. Adulteration of cashew nuts. U. S. v. 232 Boxes of Cashew Nuts. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. No. 41324. Sample No. 9523–C.)

This product was in part worm-infested.

On January 4, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 232 boxes of cashew nuts at Jersey City, N. J., alleging that the article had been imported by Wood & Selick, Inc., on or about December 4, 1935, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On May 5, 1938, Wood & Selick, Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that the unfit portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28931. Adulteration of candy. U. S. v. 9 Cases of Candy. Default decree of condemnation. Product destroyed. (F. & D. No. 40866. Sample No. 61165–C.)

This product contained insect fragments and dirt.

On November 18, 1937, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cases of candy at Jackson, Miss., alleging that the article had been shipped in interstate commerce on or about July 6, 1937, from Louisville, Ky., by Bradas & Gheens, Louisville, Ky., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Assorted Jellies Bradas & Gheens, Louisville, Ky."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On May 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered disposed of in the manner provided by law. It was destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

28932. Adulteration of butter. U. S. v. Southern Butter Co. Plea of guilty. Fine, $125. (F. & D. No. 40799. Sample Nos. 46745–C, 49506–C, 60427–C, 60428–C, 60431–C.)

This product contained less than 80 percent of milk fat.

On April 25, 1938, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southern Butter Co., a corporation, Muskogee, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act on or about August 2, 9, 18, and 30, and September 7, 1937, from the State of Oklahoma into the State of Illinois of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On May 2, 1938, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $125.

M. L. WILSON, *Acting Secretary of Agriculture.*

28933. Adulteration of fish roe. U. S. v. 3 Barrels of Fish Roe. Default decree of condemnation and destruction. (F. & D. No. 41995. Sample No. 7515–D.)

This product contained parasitic worms and fish scales.

On March 19, 1938, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three barrels of fish roe at New York, N. Y., alleging that the article had been shipped in interstate commerce on or about March 3, 1938, from Two Rivers, Wis., by LaFond Fisheries, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 8, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28934. Adulteration and misbranding of macaroni products. U. S. v. 99 Cases of Spaghetti (and 7 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41862 to 41865, incl., 41924, 41925, 42027, 42028. Sample Nos. 14863–D to 14867–D, incl., 14869–D, 14870–D.)

Certain lots of these products were labeled to indicate that they were made entirely of semolina, whereas they consisted in part of flour. A portion of the same lots and the remaining lots contained artificial color. In addition, one lot was deficient in egg solids.

On March 10, 11, and 23, 1938, the United States attorney for the District of Idaho, acting upon reports by the Secretary of Agriculture, filed in the district court eight libels praying seizure and condemnation of 273 cases and 13 boxes of macaroni products at Wallace, Idaho, alleging that the articles had been shipped in interstate commerce on various dates between July 6, 1936, and January 25, 1938, from Seattle, Wash., by Favro Macaroni Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled in part, variously: "Handy Pack Superior Quality"; "Favro Finest Quality * * * Favro Macaroni Mfg. Co., Seattle"; "Cragnano Style * * * Mfg. by Favro Macaroni Co., Seattle, Portland."

Certain lots of the articles were alleged to be adulterated in that flour had been substituted in whole or in part for semolina, which the articles purported to be. A portion of the same lots and the remaining lots were alleged to be adulterated in that they were colored in a manner whereby inferiority was concealed. One lot was alleged to be adulterated further in that an artificially colored article deficient in eggs had been substituted in whole or in part for egg noodles, which the article purported to be.

Misbranding was alleged in that the following statements appearing on the labels of the various lots were false and misleading and tended to deceive and mislead the purchaser: The statement "Pure Egg Noodles" when applied to an article that was artificially colored and was deficient in egg solids; the statement "Egg Noodles" when applied to an article that was artificially colored; the statements "Superior Quality Hard Wheat Flour Elbow Spaghetti [or other macaroni product]," when applied to articles containing artificial coal-tar color; the statements, "100% A–1 Durum Semolina Coil Ribbons [or other macaroni product]," when applied to articles that were mixtures of semolina and flour; the statements, "100% A–1 Semolina Coil Vermicelli [or other macaroni product]", and "Macaroni Natural Color 100% A–1 Semolina * * * 100% A–1 Semolina Perciatelli [or "Mezzani"]," when applied to articles that contained artificial color and were mixtures of semolina and flour.

On April 4 and May 23, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28935. Adulteration and misbranding of honey; misbranding of preserves. U. S. v. George W. Bagwell. Plea of nolo contendere. Fine, $150. (F. & D. No. 40754. Sample Nos. 15747–C to 15750–C, incl., 43601–C, 43615–C, 43616–C.)

Both products were short weight, and the honey was adulterated with glucose.

On January 29, 1938, the United States attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George W. Bagwell, trading at Chattanooga, Tenn., alleging shipment by the said defendant in violation of the Food and Drugs Act as amended, on various dates between May 13 and August 7, 1937, from the State of Tennessee into the State of Georgia of quantities of honey which was adulterated and misbranded, and preserves which were misbranded. The articles were labeled in part: "G–W Brand Preserves [or "Honey"] * * * Packed by G. W. Bagwell, Chattanooga, Tenn."

The honey was alleged to be adulterated in that a product composed in part of glucose had been substituted for honey, which it purported to be.

Both products were alleged to be misbranded in that the statements, "Honey" and "Net Wt. 4½ Lbs." or "Net Wt. 2 lbs." on the labels of the honey, and "Net Wt. 16 Ozs." on the label of the preserves, were false and misleading and were

borne on the labels so as to deceive and mislead the purchaser since the product labeled "Honey" did not consist wholly of honey but did consist in part of glucose, and the cans contained less than 4½ pounds or 2 pounds; and the jars containing the preserves contained less than 16 ounces thereof; and in that the articles were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages. The honey was alleged to be misbranded further in that it was composed in part of glucose, prepared in imitation of honey, and was offered for sale and sold under the distinctive name of another article, honey.

On April 26, 1938, a plea of nolo contendere having been entered by the defendant, the court imposed a fine of $150.

M. L. WILSON, *Acting Secretary of Agriculture.*

28936. Adulteration of apples. U. S. v. 37 Bushels of Apples (and 3 similar seizure actions). Product ordered released under bond for cleaning. (F. & D. Nos. 41791 to 41794, incl. Sample Nos. 47318–C, 47386–C, 47388–C, 47389–C.)

This product was contaminated with arsenic and lead.

On or about December 7, 1937, the United States attorney for the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court four libels praying seizure and condemnation of 229 bushels of apples at Huntington, W. Va., alleging that the article had been shipped in interstate commerce on or about September 14 and 16, and October 4, 1937, from Proctorville, Ohio, by H. E. Ellis & Turley, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it dangerous to health.

On March 5, 1938, the cases having been consolidated and H. E. Ellis & Turley, claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, the product was ordered released under bond conditioned that the deleterious substances be removed by washing.

M. L. WILSON, *Acting Secretary of Agriculture.*

28937. Adulteration of frozen eggs. U. S. v. Utah Poultry Producers Cooperative Association. Plea of guilty. Fine, $26. (F. & D. No. 39471. Sample Nos. 3214–C, 3215–C, 3216–C.)

This product was in whole or in part decomposed.

On July 31, 1937, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Utah Poultry Producers Cooperative Association, a corporation, Salt Lake City, Utah, alleging shipment by said defendant in violation of the Food and Drugs Act on or about April 25 and June 22, 1936, from the State of Utah into the State of California of quantities of frozen eggs which were adulterated. The article was labeled: "Milkwhite Egg Meats * * * Utah Poultry Producers Cooperative Ass'n."

The article was alleged to be adulterated in that it consisted in whole and in part of a decomposed and filthy animal substance.

On April 21, 1938, a plea of guilty was entered and the defendant was sentenced to pay a fine of $26.

M. L. WILSON, *Acting Secretary of Agriculture.*

28938. Adulteration of rabbits. U. S. v. 18 Sacks and 17 Sacks of Rabbits. Consent decrees of condemnation and destruction. (F. & D. Nos. 41526, 41528. Sample Nos. 3401–D, 3402–D.)

Examination of these rabbits showed that they were in whole or in part decomposed, moldy, or diseased.

On January 24 and 26, 1938, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 35 sacks of rabbits at Denver, Colo., consigned by the Robertson Produce Co., alleging that the article had been shipped in interstate commerce on or about January 17 and 20, 1938, from Portales, N. Mex., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed animal substance.

On February 1, 1938, the Robertson Produce Co., having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28939. Misbranding of olive oil. U. S. v. 125 Cans of Alleged Olive Oil. Default decree ordering product delivered to charitable institutions. (F. & D. No. 41326. Sample No. 302-C.)

This product was represented to be pure imported olive oil, whereas it consisted in part of cottonseed oil artificially colored and flavored.

On January 5, 1938, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 125 cans of olive oil at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about December 8, 1937, from Brooklyn, N. Y., by Joe Cardo, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements and device were false and misleading and tended to deceive and mislead the purchaser when applied to an article which consisted in part of cottonseed oil: "Imported Product Pure Olive Oil Gioiosa * * * [design of olive tree branches bearing olives] * * * Prodotto Importato Olio D'Oliva Puro Marca Gioiosa * * * Olio D'oliva puro garantito sotto qualsiasi analisi chimica. We guarantee this olive oil to be absolutely pure under chemical analysis. * * * Imported Pure Olive Oil."

The article was alleged to be misbranded further in that it was an imitation of and was offered for sale under the distinctive name of another article, olive oil.

On May 11, 1938, no claimant having appeared, the product was ordered delivered to charitable institutions.

M. L. WILSON, *Acting Secretary of Agriculture.*

28940. Misbranding of canned tomatoes. U. S. v. 150 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. & D. No. 41497. Sample No. 48097-C.)

This product was substandard because the fruit was not normally colored and contained excessive peel, and it was not labeled to indicate that it was substandard.

On January 21, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 150 cases of canned tomatoes at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about September 16, 1937, by R. E. Dobyns from Monaskon, Va., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Green Vale Brand Hand Packed Tomatoes * * * Packed by R. E. Dobyns, Monaskon, Va."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it was not normally colored and the average amount of peel per pound of net contents exceeded 1 square inch and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 4, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28941. Alleged misbranding of bread. U. S. v. Shervill R. Sharp (Surebest Bakers). Tried to the court and a jury. Verdict of not guilty. (F. & D. No. 39749. Sample No. 30750-C.)

On August 24, 1937, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Shervill R. Sharp, trading as Surebest Bakers at El Paso, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about February 26, 1937, from the State of Texas into the State of New Mexico of quantities of bread that was alleged to be misbranded. The article was labeled in part: "Surebest * * * Bread Weight 1 Pound * * * Surebest Bakers"; or "Surebest * * * White Bread * * * Wt. 1 Lb. Sunlight Bakery Corp. El Paso, Texas."

It was alleged to be misbranded in that the statements "Weight 1 Pound" and "Wt. 1 Lb." were false and misleading and were borne on the packages so as to deceive and mislead the purchaser since they represented that each of the packages contained 1 pound weight of the article, whereas each of the packages did not contain 1 pound weight of the article but contained a less amount. The article was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On October 14, 1937, the case came on for trial before the court and a jury and at the conclusion of the trial, the court directed the jury to return a verdict of not guilty.

M. L. WILSON, *Acting Secretary of Agriculture.*

28942. Adulteration and misbranding of egg noodles. U. S. v. 286 Boxes of Noodles. Default decree of condemnation. Product delivered to charitable organizations. (F. & D. No. 41377. Sample No. 1241–D.)

This product was deficient in egg solids and contained added yellow coal-tar color.

On February 1, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 286 boxes of noodles at Washington, D. C., alleging that the article had been shipped in interstate commerce on or about January 6, 1938, by the Blue Ribbon Noodle Co., Inc., from Wilkes-Barre, Pa., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Blue Ribbon Pure Egg Noodles * * * Blue Ribbon Noodle Co., Inc., Wilkes-Barre, Pa."

It was alleged to be adulterated in that a product deficient in egg solids and containing added yellow coal-tar color had been substituted in whole or in part for pure egg noodles, which it purported to be; and in that it was colored in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Pure Egg Noodles" was false and misleading and tended to deceive and mislead the purchaser when applied to an article deficient in eggs and containing added yellow coal-tar color.

On March 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

28943. Adulteration and misbranding of ketchup. U. S. v. Alvin A. Baumer (Baumer Food Products Co.). Tried to the court. Judgment of guilty. Sentence suspended and defendant placed on probation for 1 year. (F. & D. No. 39495. Sample No. 21622–C.)

This product was labeled to indicate that it was tomato ketchup; whereas it consisted in part of apple pulp and was artificially colored.

On March 28, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Alvin A. Baumer, trading as Baumer Food Products Co., at New Orleans, La., alleging shipment by said defendant in violation of the Food and Drugs Act on or about January 15, 1937, from the State of Louisiana into the State of Mississippi of a quantity of ketchup which was adulterated and misbranded. The article was labeled in part: "Baumer's Crystal Brand * * * Ketchup * * * Baumer Food Products Co., New Orleans, La."

It was alleged to be adulterated in that a mixture of tomato pulp, apple pulp, vinegar, salt, and spices, artificially colored, had been substituted for ketchup, which it purported to be.

Misbranding was alleged in that the statement "Ketchup," borne on the bottle label, was false and misleading in that it represented that the article was tomato ketchup; whereas it was not tomato ketchup, but was a mixture of tomato pulp, apple pulp, vinegar, salt, and spices artificially colored in a manner to simulate tomato ketchup. It was alleged to be misbranded further in that the bottles bore designs and devices which were false and misleading, namely, a device consisting of a container of a shape characteristic of containers used for tomato ketchup, including a screw cap closure over a crimp cap, also characteristic of tomato ketchup bottles, and the design of an elliptical red background to the word "Ketchup" on the main label simulating in general appearance the design of a tomato often appearing on labels for tomato ketchup, representing the article to be tomato ketchup; whereas it was not.

The case came on for trial before the court without a jury on April 7, 1938, and was completed on April 13, 1938. Whereupon, the court adjudged the defendant guilty, suspended the imposition of sentence, and placed him on probation for 1 year.

M. L. Wilson, *Acting Secretary of Agriculture.*

28944. Adulteration of walnut meats. U. S. v. Morris Rosenberg. Plea of guilty. Fine, $150. (F. & D. No. 40793. Sample Nos. 51210–C, 51211–C, 51221–C.)

Samples of these nuts were found to be worm-damaged, moldy, rancid, or decomposed.

On April 25, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Morris Rosenberg, trading at Los Angeles, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 24 and 31, 1937, from the State of California into the State of Oregon of quantities of walnut meats that were adulterated. The article was labeled in part: "Walnut Meats * * * Morris Rosenberg * * * Los Angeles."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On May 23, 1938, a plea of guilty having been entered by the defendant, he was sentenced to pay a fine of $150.

M. L. Wilson, *Acting Secretary of Agriculture.*

28945. Adulteration of catsup. U. S. v. 243 Cases of Catsup. Portion of product released unconditionally. Remainder condemned and destroyed. (F. & D. No. 40985. Sample No. 63019–C.)

A portion of this product contained excessive mold.

On December 3, 1937, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 243 cases of catsup at Marshalltown, Iowa, alleging that the article had been shipped in interstate commerce on or about September 18, 1937, from Matthews, Ind., by Marshall Canning Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On December 28, 1937, the Marshall Canning Co., claimant, having filed a petition for the release of 208 cases of the seized merchandise, averring that the product in the said cases complied with the provisions of the law, the court, after hearing the evidence, entered an order granting such release. On May 4, 1938, trial was had before the court with respect to the remainder (24 cases) and judgment was entered ordering that they be condemned and destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28946. Adulteration of pears. U. S. v. 1 Carload of Pears. Consent decree of condemnation and destruction. (F. & D. No. 40601. Sample No. 49742–C.)

This product was contaminated with arsenic and lead.

On September 30, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one carload of pears at Chicago, Ill., alleging that the product had been shipped in interstate commerce on or about September 23, 1937, from Derby, Mich., by A. N. Spear, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On October 1, 1937, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28947. Misbranding of canned salmon. U. S. v. 25 Cases of Canned Salmon (and 13 similar seizure actions). Decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 38347 to 38360, incl. Sample No. 15906–C.)

This product was pink salmon of inferior quality but its labeling represented it to be of superior quality.

On October 10, 1936, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court 14 libels, praying seizure and condemnation of a total of 335 cases of canned salmon at Tampa, Fla., alleging that the article had been shipped in interstate commerce on or about August 8, 1936, from Seattle, Wash., by G. P. Halferty & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Show Boat Brand Fancy Alaska Pink Salmon * * * Halferty Corporation Seattle."

On November 7, 1936, an order was entered consolidating the 14 libels. On November 7, 1936, G. P. Halferty & Co., claimant, filed exceptions to the libel, which were argued on December 11, 1936, and sustained, the Government being allowed 15 days to file an amended libel. On December 17, 1936, the United States attorney filed an amended libel.

The amended libel alleged that the article was misbranded in that the statement borne on the label, "Fancy Alaska Pink Salmon," was false and misleading and tended to deceive and mislead the purchaser thereof, since the said statement indicated and meant that the cans contained salmon of a superior quality; whereas the salmon contained therein was of a decidedly inferior quality.

On May 5, 1938, the claimant having withdrawn its exceptions to the amended libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

M. L. WILSON, *Acting Secretary of Agriculture.*

28948. Adulteration of candy. U. S. v. 24 Boxes of Nutty Fruit-Rolls (and 2 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 41866, 41969, 41970. Sample Nos. 10501–D, 11919–D, 12338–D, 12339–D.)

This product contained rodent hairs and insect fragments.

On March 7 and 16, 1938, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court three libels praying seizure and condemnation of 36 boxes of Nutty Fruit-Rolls at Brooklyn, N. Y., alleging that the article had been shipped in interstate commerce on or about March 2 and 8, 1938, from Newark, N. J., by the March Candy Co.; from New Haven, Conn., by D. Amato Bros.; and from Trenton, N. J., by N. Leventhal, and charging adulteration in violation of the Food and Drugs Act. The product consisted of goods returned to the Bonomo Candy & Nut Corporation by the said shippers. It was labeled in part: "Bonomo's Quality Item * * * Nutty Fruit-Rolls Bonomo Candy & Nut Corp. Brooklyn, N. Y."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 22, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28949. Adulteration of ketchup. U. S. v. 739 Cases of Ketchup (and 1 other seizure action against the same product). Consent decrees of condemnation; product ordered destroyed; containers salvaged. (F. & D. Nos. 42104, 42152. Sample Nos. 14136–D, 14158–D to 14160–D, incl.)

This product contained excessive mold.

On April 1 and April 8, 1938, the United States attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 910 cases and 24 bottles of ketchup in part at Somerville, and in part at Worcester, Mass., alleging that the article had been shipped in interstate commerce on or about February 9 and March 15, 1938, by Curtice Bros. Co., from Rochester, N. Y., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Blue Label Ketchup * * * Curtice Brothers Co. Rochester, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On April 15 and 27, 1938, Curtice Bros. Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered that the product be destroyed, but that the cases and bottles might be salvaged.

M. L. WILSON, *Acting Secretary of Agriculture.*

28950. Supplement to notice of judgment No. 27183. Conviction for contempt of court for the unlawful disposal of goods seized under libel charging violation of the Food and Drugs Act. U. S. v. Walter F. Deeth. Fine, $50. (F. & D. No. 39052. Sample No. 13808-C.)

On May 19, 1937, judgment of condemnation and destruction was entered in the United States District Court for the Western District of Texas, against 11 cases of sorghum-flavored sirup which had been shipped by Penick & Ford, Ltd., Inc., from Harvey, La., to San Antonio, Tex., and which had been seized under a libel charging misbranding in that the cans contained less than the amount declared on the label, namely, 5 pounds. (Notice of Judgment No. 27183.)

The product had been seized in possession of the National Grocer Co., San Antonio, Tex., the consignee, and had been left in custody of that firm. When the United States marshal attempted to carry out the order of destruction, he ascertained that the product had been disposed of.

On July 16, 1937, Walter F. Deeth, secretary of the National Grocer Co., was cited for contempt of court. He was charged with having delivered goods which had been attached by order of the court, to C. L. Pugh, of San Antonio, Tex., a representative of the shipper, and he was convicted of the charge and sentenced to pay a fine of $50.

M. L. Wilson, *Acting Secretary of Agriculture.*

28951. Adulteration of butter. U. S. v. 27 Tubs of Butter. Consent decree of condemnation and destruction. (F. & D. No. 40883. Sample No. 46663-C.)

This product contained mold, and a portion was deficient in milk fat.

On November 12, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27 tubs of butter at Pittsburgh, Pa., alleging that the article had been shipped in interstate commerce on or about August 26, 1937, from New Martinsville, W. Va., by Bowser Sales & Trading Corporation, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance. A portion was alleged to be adulterated further in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On May 20, 1938, Bowser Sales & Trading Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28952. Adulteration of flour. U. S. v. 490 Bags of Flour. Decree of condemnation. Product released under bond. (F. & D. No. 40478. Sample No. 43836-C.)

This product was weevil-infested.

On October 13, 1937, the United States attorney for the Eastern District of South Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 490 bags of flour at Charleston, S. C., alleging that the article had been shipped in interstate commerce on or about June 12 and July 11, 1936, by the Fisher Flouring Mills Co. from Seattle, Wash., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fisher's Morbread Flour Fisher Flouring Mills Company Seattle."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On November 15, 1937, the Fisher Flouring Mills Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be reconditioned for some purpose other than human consumption.

M. L. Wilson, *Acting Secretary of Agriculture.*

28953. Adulteration of cream. U. S. v. 1 10-Gallon Can and 2 10-Gallon Cans of Cream. Default decrees of condemnation and destruction. (F. & D. Nos. 40368, 40369. Sample Nos. 48379-C, 48601-C.)

This product was filthy and decomposed.

On or about August 31 and September 3, 1937, the United States attorney for the Northern District of West Virginia, acting upon reports by the Secretary of

Agriculture, filed in the district court libels praying seizure and condemnation of three 10-gallon cans of cream at New Martinsville, W. Va., alleging that the article had been shipped in part on or about August 28 and 30, 1937, from New Matamoras, Armstrong Mills, and Bealsville, Ohio, by Bowser Sales & Trading Corporation, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On August 31 and September 4, 1937, the owners of the product having consented, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28954. Adulteration of crab apples. U. S. v. 27 Bushels of Crab Apples. Default decree of condemnation and destruction. (F. & D. No. 41354. Sample No. 59215–C.)

This product was contaminated with excessive arsenic and lead.

On or about October 14, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 27 bushels of crab apples at Indianapolis, Ind., alleging that the article had been shipped in interstate commerce on or about September 28, 1937, by Virgil Goth from Coloma, Mich., to himself at Indianapolis, Ind., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On December 11, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28955. Misbranding of canned cherries. U. S. v. 180 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 40742. Sample No. 60553–C.)

This product fell below the standard established by this Department because it contained excessive pits, and it was not labeled to indicate that it was substandard.

On November 15, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 180 cases of canned cherries at Amarillo, Tex., alleging that the article had been shipped in interstate commerce on or about August 19, 1937, by Ray A. Ricketts Co. from Canon City, Colo., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "O-Joy Brand * * * Red Pitted Cherries * * * Packed by Ray A. Ricketts Company."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that there was present more than 1 cherry pit per each 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On May 23, 1938, four cases of the product having been seized and no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28956. Adulteration and misbranding of butter. U. S. v. 5 Cases of Sunlight Creamery Butter. Default decree of forfeiture. Product ordered delivered to a charitable institution. (F. & D. No. 40192. Sample No. 53330–C.)

This product was deficient in milk fat.

On August 9, 1937, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five cases of butter at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about August 2, 1937, by the Louisville Creamery from Louisville, Miss., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Sunlight Creamery Butter * * * The Cudahy Packing Co."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

The article was alleged to be misbranded in that the statement "Butter," on the carton, was false and misleading and deceived and misled the purchaser.

On September 15, 1937, no claimant having appeared, judgment was entered ordering the product forfeited and sold. On September 23, 1937, no sale having been effected, an amended decree was filed ordering the product delivered to a charitable institution.

M. L. WILSON, *Acting Secretary of Agriculture.*

28957. Adulteration and misbranding of butter cookies. U. S. v. 219 Packages of Butter Cookies. Default decree of condemnation and destruction. (F. & D. No. 41839. Sample No. 13909–D.)

This product was represented to be butter cookies but contained little or no butter.

On March 1, 1938, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 219 packages of butter cookies at Portland, Maine, alleging that the article had been shipped in interstate commerce on or about January 12, 1938, from Lowell, Mass., by the Megowen Educator Food Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Educator Butter Cookies * * * Megowen Educator Food Co., Cambridge, Mass."

The article was alleged to be adulterated in that a substance containing little or no butter had been mixed and packed therewith so as to reduce or lower its quality and strength and had been substituted in whole or in part for the article; and in that it was mixed in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statement "Butter Cookies," on the package and branded on the cookies, was false and misleading and tended to deceive and mislead the purchaser when applied to an article containing little or no butter.

On March 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28958. Adulteration and misbranding of candy. U. S. v. 10 Boxes of Candy Bars, et al. Default decree of condemnation and destruction. (F. & D. No. 41487. Sample No. 2242–D.)

Samples of this product were found to be infested with insects. Moreover, the statement of the quantity of contents appearing on a portion was incorrect and was inconspicuously placed.

On January 21, 1938, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 boxes of candy bars and 120 caramels at Fort Smith, Ark., alleging that the articles had been shipped in interstate commerce on or about September 11, 1937, from Dallas, Tex., by the Consolidated Candy Co., and charging adulteration and misbranding in violation of the Food and Drugs Act. The articles were labeled: "Consolidated Candy Co. Dallas, Texas."

They were alleged to be adulterated in that they consisted in part of filthy vegetable substances.

The bars were alleged to be misbranded in that the statement of quantity on the wrapper "1½ oz. or over," was false and misleading and tended to deceive and mislead the purchaser since the said bars were short weight and did not weigh 1½ ounces or more each; and in that the quantity of contents was not plainly and conspicuously marked on the outside of the package in terms of weight since the quantity stated was not correct, and since it appeared on the bottom of each bar in an inconspicuous place on the wrapper.

On May 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28959. Misbranding of oil. U. S. v. 34 Cans of Alleged Olive Oil. Default decree ordering product delivered to charitable institutions. (F. & D. No. 41267. Sample No. 301–C.)

This product was labeled to convey the impression that it was olive oil, whereas it was artificially colored and flavored cottonseed oil.

On December 28, 1937, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 cans of oil at New Haven, Conn., alleging that the article had been shipped in interstate commerce on or about December 3, 1937, from Brooklyn, N. Y., by Gus Mantia, and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the following statements were false and misleading and tended to deceive and mislead the purchaser when applied to artificially colored and flavored cottonseed oil and when applied to domestic cottonseed oil which purported to be a foreign product: "Prodotto Garantito Extra Fine Oil La Gustosa * * * Olio Finissimo * * * The oil contained in this can * * * is guaranteed to be of the finest quality. * * * L'olio che questa latta contiene e di qualita extra fina insuperabile per tavola, cucina." The article was alleged to be misbranded further in that it was an imitation of another article, olive oil.

On May 11, 1938, no claimant having appeared, the product was ordered delivered to charitable institutions.

M. L. WILSON, *Acting Secretary of Agriculture.*

28960. Adulteration of canned prunes. U. S. v. 1,208 Cases of Canned Prunes. Default decree of condemnation and destruction. (F. & D. No. 40922. Sample No. 60549–C.)

Samples of this product were found to contain brown rot.

On or about November 26, 1937, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,208 cases of canned prunes at Lubbock, Tex., alleging that the article had been shipped in interstate commerce on or about October 15, 1937, from Salem, Oreg., by the Allen Fruit Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "King's Packed by Allen Fruit Co. Salem, Oreg. * * * Fresh Prunes."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid vegetable substance.

On May 16, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28961. Misbranding of canned cherries. U. S. v. 498 Cases of Red Sour Pitted Cherries. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 40710. Sample Nos. 49904–C, 49908–C.)

This product fell below the standard established by this Department because it contained an excessive number of pits.

On November 10, 1937, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 498 cases of canned cherries at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about September 20, 1937, from Lockport, N. Y., by H. C. Hemingway & Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cayuga Red Sour Pitted Cherries in Water * * * Distributed by H. C. Hemingway & Co., Auburn, Cayuga County, N. Y."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain or conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On December 29, 1937, H. C. Hemingway & Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was released under bond conditioned that it be relabeled with the substandard legend prescribed for partially pitted cherries.

M. L. WILSON, *Acting Secretary of Agriculture.*

28962. Adulteration of canned plums. U. S. v. 1,495 Cases of Plums. Consent decree of condemnation. Product released under bond. (F. & D. No. 40529. Sample No. 33787–C.)

This product was undergoing progressive decomposition.

On October 21, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 1,495 cases of canned plums at Chicago, Ill., alleging that the article had been shipped in interstate commerce from Salem, Oreg., by the Starr Fruit Products Co. to Ft. Wayne, Ind., that it had been rejected by the consignee, and reshipped to Chicago, Ill., and charging that it was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Starr Brand Fancy Fresh Plums in Syrup * * * Starr Fruit Products Co., Portland, Ore."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On November 3, 1937, the Starr Fruit Products Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for sorting and disposal in compliance with the law.

M. L. Wilson, *Acting Secretary of Agriculture.*

28963. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 40384. Sample No. 60409–C.)

This product contained less than 80 percent of milk fat.

On or about September 3, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about August 28, 1937, from Freeman, S. Dak., by Farmers' Cooperative Creamery, and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

On October 5, 1937, Land O' Lakes Creamery, Inc., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. Wilson, *Acting Secretary of Agriculture.*

28964. Misbranding of canned cherries. U. S. v. 500 Cases of Canned Cherries. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41608. Sample Nos. 29699–C, 368–D, 375–D.)

This product fell below the standard established by this Department because it contained an excessive number of pits.

On February 3, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 cases of canned cherries at Los Angeles, Calif., alleging that the article had been shipped in interstate commerce on or about January 3, 1938, from Seattle, Wash., by R. D. Bodle Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Haas, Baruch & Co., Los Angeles, Calif. Distributors * * * Black and White Brand Red Sour Pitted Cherries."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On March 29, 1938, R. D. Bodle, Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. Wilson, *Acting Secretary of Agriculture.*

28965. Misbranding of candy. U. S. v. 234 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 41815. Sample No. 14069–D.)

This product was short weight.

On February 23, 1938, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 234 boxes of candy at Portland,

Maine, alleging that the article had been shipped in interstate commerce on or about February 10, 1938, from Boston, Mass., by Gloria Chocolate Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Chimes Chocolates * * * One Pound Net * * * Gloria Chocolate Co., Boston, Mass."

It was alleged to be misbranded in that the statement "One Pound Net" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On March 5, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28966. Adulteration of flour. U. S. v. 6,300 Sacks of Flour. Consent decree of condemnation. Product released under bond to be disposed of for feed or other lawful purpose. (F. & D. No. 40964. Sample No. 44283–C.)

This product was weevil- and insect-infested.

On November 30, 1937, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6,300 sacks of flour at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about June 15, 1937, from Pendleton, Oreg., by Collins Flour Mills, Inc., to Panama City, Fla., and that it had been reshipped on or about November 17, 1937, to Dothan, Ala., and charging that it was adulterated in violation of the Food and Drugs Act.

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 16, 1938, Indiana Flour Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be manufactured into feed or denatured or otherwise disposed of in conformity with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

28967. Adulteration of frozen eggs. U. S. v. 181 Cans of Frozen Eggs. Decree of condemnation. Product released under bond. (F. & D. No. 42086. Sample No. 16996–D.)

This product was in part decomposed.

On March 30, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 181 cans of frozen eggs at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about November 22, 1937, from Chicago, Ill., by Marshall Kirby & Co., and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 27, 1938, Marshall Kirby & Co., Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it should not be disposed of in violation of the law. The decomposed portion was segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28968. Adulteration of apples. U. S. v. 53 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41235. Sample No. 59689–C.)

Examination of this product showed the presence of excessive arsenic and lead.

On October 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 bushels of apples at Rockford, Ill., alleging that the article had been shipped in interstate commerce on or about October 10, 1937, from Benton Harbor, Mich., by C. L. Heinlen Co., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "L. C. Harris, R. 1, Benton Harbor, Mich."

It was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28969. Adulteration of apples. U. S. v. 25 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 41234. Sample No. 59647–C.)

Examination of this product showed the presence of excessive arsenic and lead.

On October 15, 1937, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of apples at Rockford, Ill., alleging that the article had been shipped in interstate commerce on or about October 6, 1937, from Benton Harbor, Mich., by R. J. Darrington & Son to themselves at Rockford, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "L. C. Harris, R. 1, Benton Harbor, Mich."

The article was alleged to be adulterated in that it contained added poisonous or deleterious ingredients, arsenic and lead, which might have rendered it harmful to health.

On April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28970. Adulteration of apples. U. S. v. 25 Bushels of Apples. Default decree of condemnation and destruction. (F. & D. No. 40851. Sample No. 59459–C.)

Examination of this product showed the presence of excessive arsenic and lead.

On October 6, 1937, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bushels of apples at Terre Haute, Ind., alleging that the article had been shipped in interstate commerce on or about September 27, 1937, from Benton Harbor, Mich., by Oliver Kirkman, and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "From Nelson C. Kreiger, R. 2, Watervliet, Mich."

It was alleged to be adulterated in that it contained added poisonous and deleterious ingredients, lead and arsenic, which were harmful to health and which might have rendered use of the product harmful.

On December 11, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. Wilson, *Acting Secretary of Agriculture.*

28971. Adulteration and misbranding of canned peas; adulteration of canned cherries. U. S. v. Ray-Maling Co., Inc. Plea of guilty. Fine, $750. (F. & D. No. 40748. Sample Nos. 29399–C, 32679–C, 32845–C, 32850–C.)

The canned cherries were adulterated because of the presence of maggots. The canned peas were adulterated because of the presence of weevils, and certain lots were misbranded because they were falsely labeled "Garden Run."

On December 30, 1937, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ray-Maling Co., Inc., Hillsboro, Oreg., alleging shipment by said corporation on or about September 30, 1936, and April 3, 1937, from the State of Oregon into the State of Washington of quantities of canned peas that were adulterated and one lot of which was also misbranded in violation of the Food and Drugs Act. The information alleged further violation of the said act in that the said defendant sold to Balfour, Guthrie & Co., Ltd., Portland, Oreg., under a guaranty that the article conformed to the Food and Drugs Act a quantity of canned cherries; that the said article was shipped by the purchaser in the identical condition as when so sold and guaranteed, on or about February 9, 1937, from the State of Oregon into the State of New York, and that the said canned cherries were adulterated in violation of said act; and furthermore that the defendant sold to the Western States Grocery Co., Portland, Oreg., a quantity of canned peas under a guaranty of the same import that the said canned peas were shipped by the purchaser on or about March 25, 1937, from the State of Oregon into the State of Washington, in the identical condition as when so sold and guaranteed; that the canned peas were adulterated and misbranded; and that the defendant by virtue of the said guaranties was amenable to prosecution for such shipments. The peas were labeled in part: "Raycroft * * *

Sweet Peas [or "Garden Run Sweet Peas"] * * * Distributed by Ray-Maling Company, Inc. Hillsboro Oregon." The cherries were labeled in part: "Klipnockie Brand Water Pack Red Pitted Cherries * * * The Oneonta Grocery Co Oneonta, N. Y. Distributors."

The canned peas were alleged to be adulterated in that they consisted of a filthy vegetable substance, namely, peas that contained dead pea weevils.

Portions of the canned peas were alleged to be misbranded in that the statement "Garden Run Sweet Peas" was false and misleading and was borne on the labels so as to deceive and mislead the purchaser, since the article did not consist of garden run peas but consisted of peas of the largest size in the garden run of peas.

The canned cherries were alleged to be adulterated in that they consisted of a filthy vegetable substance, namely, cherries infested with maggots.

On January 17, 1938, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of $750.

M. L. WILSON, *Acting Secretary of Agriculture.*

28972. Misbranding of canned peas. U. S. v. 362 Cartons of Peas. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 41346. Sample No. 55801–C.)

This product feel below the standard for canned peas established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 6, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 362 cases of canned peas at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about November 27, 1937, by the Southern Packing Co., Inc., from Smithsburg, Md., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Value Brand Early June Peas * * * Southern Packing Co. Inc. Baltimore, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, in that the peas were not immature, and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On February 17, 1938, Southern Packing Co., Inc., Baltimore, Md., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

28973. Adulteration of tomato paste. U. S. v. 133 Cans of Tomato Paste (and 7 similar seizure actions). Tried to the court. Judgment for the Government. Decrees of forfeiture and destruction. (F. & D. No. 36142. Sample No. 15556–B.)

This product contained evidence of worm infestation.

On August 16, 1935, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court eight libels praying seizure and condemnation of 669 cases and 119 cans of tomato paste at Philadelphia, Pa., alleging that the article had been shipped in interstate commerce on or about July 19, 1935, from Harbor City, Calif., by Harbor City Food Corporation, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Campagnola Brand Tomato Paste * * * Harbor City Canning Co. Los Angeles, California."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 6, 1937, Harbor City Food Corporation having appeared as claimant, one of the cases was brought on for trial before the court without a jury upon a stipulation that the testimony introduced should apply equally to all the seizures. Decision was reserved until March 3, 1938, when the product was adjudged to be adulterated and the court handed down the following opinion:

MARIS, *District Judge:* "The United States has filed its libel in this case seeking the confiscation and condemnation under the Food and Drugs Act as amended, 21 U. S. C. A. § 1, et seq., of 133 cases, more or less, each containing 100 cans of

tomato paste, shipped by Harbor City Food Corporation from California to Cacciola Bros. in Philadelphia for sale. From the evidence I make the following special findings of fact:

"The tomato paste in question was manufactured in July 1935, by the Harbor City Food Corporation at its plant in Harbor City, Calif. The paste was manufactured from tomatoes purchased by the corporation from farmers and delivered at its plant. Many of these tomatoes were infested with the corn-ear worm. This worm, after hatching upon the tomato plant, crawls under the calyx of the developing fruit and burrows down in the core, where it carries on its feeding operations and deposits its excreta.

"Careful inspection of the individual tomatoes entering a plant is necessary in order to detect and reject tomatoes containing corn-ear worms or their excreta. At the time of the manufacture of the tomato paste involved in this case a proper and adequate inspection of the tomatoes entering its plant was not maintained by the Harbor City Food Corporation. As a result, a large number of tomatoes containing corn-ear worms and their excreta were used in the manufacture of the paste.

"In the course of manufacture of the paste the tomatoes and the worms contained in them are broken up into very small fragments and pulped. In the finished product the worm fragments cannot be detected by the consumer either by sight or taste, nor do they render the tomato paste injurious to the consumer's health. In fact, they can normally be detected only by a microanalyst.

"The microanalysis by Government chemists of 33 samples of the tomato paste involved in this case indicated that it contained on the average about 85 fragments of the corn-ear worm in each 200 cubic centimeters.

DISCUSSION

"The confiscation and condemnation of this tomato paste is sought by the Government under section 10 of the Food and Drugs Act, 21 U. S. C. § 14, 21 U. S. C. A. § 14, which provides that 'any article of food * * * that is adulterated * * * and is being transported from one State * * * to another for sale, * * * shall be liable to be proceeded against in any district court of the United States within the district where the same is found, and seized for confiscation by a process of libel for condemnation.' Section 7 of the act, 21 U. S. C. § 8, 21 U. S. C. A. § 8, provides, inter alia, that 'an article shall be deemed to be adulterated * * * in the case of food * * * if it consists in whole or in part of a filthy * * * animal or vegetable substance.' The uncontradicted testimony showed, as I have found, that this paste contained a large number of worm fragments. It is the contention of the Government that the presence of these worm fragments, although not subject to detection by ordinary means and not injurious to health, stamped the paste as a filthy vegetable substance within the meaning of the act. With this contention I agree.

"[1–3] It is clear that the act does not require a food substance to be injurious to health in order to be filthy within the meaning of the statutory definition. *A. O. Anderson & Co.* v. *United States*, 9 Cir., 284 F. 542. It is equally clear that the apparent presence of worms and their excreta in food designed for human consumption renders it filthy within the meaning of the act. *Galt* v. *United States*, 39 App. D. C. 470. There can be no doubt that this section of the act was designed to protect the aesthetic tastes and sensibilities of the consuming public and that the visible presence of such material in food would offend both. [4] Conceding this, the claimant argues that the statute is directed only to filth which is perceptible by the consumer. With this I cannot agree. To so interpret this section of the statute would largely deprive the public of the protection it seeks to give. The consumer ordinarily requires no governmental aid to protect him from the use of food products the filthy adulteration of which he can see, taste, or smell. What he really needs is Government protection from food products the filthy contamination of which is concealed within the product. I am quite clear that it is the intent of the statute to bar such products from the channels of interstate commerce. [5] It may well be that such an adulteration might be so slight as to be de minimis. The state of the art of producing a food product may be such as to render it impossible in practice to eliminate entirely all such contamination. There was evidence in this case that the Food and Drug Administration has established a tolerance as to worm fragments in tomato products. The number of such fragments present in the tomato paste involved in this case, however, is not within that tolerance, and is shown by the evidence to be far more

than would have been present had proper methods of inspection been followed. It must, therefore, be held to be adulterated within the meaning of the Food and Drugs Act.

"I accordingly reach the following conclusions of law:

"The tomato paste involved in this proceeding consists of a filthy vegetable substance and is, therefore, an adulterated article of food within the meaning of the Food and Drugs Act.

"It is, therefore, liable to be confiscated and condemned under the provisions of section 10 of that act, 21 U. S. C. A. § 14.

"A decree for the confiscation and condemnation of the tomato paste seized in this case may be entered."

On March 15, 1938, judgments of forfeiture were entered with respect to all lots and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

28974. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 41876. Sample No. 8393–D.)

This product contained less than 80 percent of milk fat.

On February 9, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 tubs of butter at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about February 1, 1938, from Vinita, Okla., by Craig County Milk Producers Association, charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

On February 23, 1938, D. J. Coyne & Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

28975. Adulteration and misbranding of butter. U. S. v. Archie B. Gibbs (Laramie Valley Creamery). Plea of guilty. Fine, $100. (F. & D. No. 40801. Sample Nos. 39831–C, 48007–C.)

This product was short of the declared weight, and one lot of it contained less than 80 percent of milk fat.

On April 15, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Archie B. Gibbs, trading as Laramie Valley Creamery at Laramie, Wyo., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about August 24 and September 15, 1937, from the State of Wyoming into the State of Colorado, of quantities of butter which was misbranded and one lot of which was also adulterated. The article was labeled in part: "Valley Gold * * * Butter * * * Manufactured by Laramie Valley Creamery, Laramie, Wyo."

One lot of the article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as prescribed by the act of March 4, 1923, which the article purported to be.

Both lots of the article were alleged to be misbranded in that the statement "One Pound Net Weight," borne on the carton, was false and misleading and was borne on the carton so as to deceive and mislead the purchaser since the said carton contained less than 1 pound. One lot was alleged to be misbranded further in that the statement "Butter" was false and misleading and was borne on the label so as to deceive and mislead the purchaser since it represented that the article was butter, a product which should contain 80 percent of milk fat; whereas it contained less than 80 percent of milk fat. Misbranding was alleged further in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On April 22, 1938, a plea of guilty having been entered by the defendant, he was sentenced to pay a fine of $100.

M. L. WILSON, *Acting Secretary of Agriculture.*

INDEX TO NOTICES OF JUDGMENT 28751–28975

[1] Prosecution contested.
[2] Seizure contested.

[1] Prosecution contested.
[2] Conviction for contempt of court.
[3] Contested seizure.
[4] Contains an opinion of the court.

U. S. GOVERNMENT PRINTING OFFICE: 1938

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

28976–29000

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 21, 1938]

28976. Adulteration and misbranding of rubber prophylactics. U. S. v. 1 Gross and 1 Gross of Liquid Latex. Default decree of condemnation and destruction. (F. & D. Nos. 41652, 41653. Sample Nos. 2079–D, 2080–D.)

Examination of these prophylactics showed that some of them were defective in that they contained holes.

On or about February 8, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two gross of rubber prophylactics at St. Paul, Minn., alleging that the article had been shipped in interstate commerce on or about January 18, 1938, from New York, N. Y., by the Northeastern Latex Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was labeled in part: "Pro-Medico Liquid Latex * * * For Medical Purposes Tested Guaranteed Five Years * * * Triple Air Tested"; or "3 Little Pigz Liquid Latex, * * * Finest Quality Triple Tested Prophylactic Rubbers * * * For Prevention of Disease * * * Guaranteed Five Years"

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that certain statements appearing on the package were false and misleading.

On March 22, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28977. Misbranding of oil of sandalwood. U. S. v. 5 Pounds of Oil of Sandalwood. Default decree of condemnation and destruction. (F. & D. No. 42226. Sample No. 9181–D.)

The labeling of this product represented that it conformed to the United States Pharmacopoeial standard for sandalwood oil, whereas it fell far below such standard.

On April 29, 1938, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 5 pounds of oil of sandalwood at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about February 19, 1938, from New York, N. Y., by the Ehrmann Strauss Co., and charging misbranding in violation of the Food and Drugs Act. The article was labeled: "H. C. Ryland * * * Oil Sandalwood E. I. U. S. P."

The article was alleged to be misbranded in that the statement "Oil Sandalwood * * * U. S. P." was false and misleading since it caused the purchaser to believe that the article was sandalwood oil; whereas it did not meet the requirements of sandalwood oil named in the United States Pharmacopoeia; and in that it was an imitation of and was offered for sale under the name of another article.

On May 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28978. Misbranding of Astyptodyne Cough Syrup and Astyptodyne Ointment for Piles. U. S. v. Astyptodyne Chemical Co., Inc., and Hargrove Bellamy. Pleas of nolo contendere. Fine, $25. (F. & D. No. 38073. Sample Nos. 16126–C, 16127–C.)

These products contained no ingredients capable of producing the curative and therapeutic effects claimed in the labeling.

On January 31, 1938, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Astyptodyne Chemical Co., Inc., Wilmington, N. C., and Hargrove Bellamy, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about December 2, 1935, from the State of North Carolina into the State of South Carolina, of quantities of the above-named drugs which were misbranded. The articles were labeled in part: "Astyptodyne Chemical Co., Wilmington, N. C."

Analyses showed that they consisted, respectively, of a syrup containing 1.25 percent by volume of pine oil suspended in it; and of an ointment containing about 12 percent by weight of pine oil.

The articles were alleged to be misbranded in that certain statements, designs, and devices regarding their curative and therapeutic effects, appearing in the labeling, falsely represented that the cough syrup was effective as a treatment, remedy, and cure for coughs, bronchitis, croup, sore throat, whooping cough, and other diseases of the throat and chest; effective to heal the membranes of the throat, to get rid of mucus which clogs the bronchial tubes, and to relieve the distressing symptoms of simple sore throat, catarrhal bronchitis, and croup due to colds; and that the ointment was effective as a treatment, remedy, and cure for protruding, itching, bleeding, and internal piles and other external affections; whereas the articles contained no ingredients or medicinal agents effective for the said purposes.

On March 21, 1938, pleas of nolo contendere having been entered on behalf of the defendants, the court imposed a fine of $25.

HARRY L. BROWN. *Acting Secretary of Agriculture.*

28979. Misbranding of Green Mountain Stick Salve. U. S. v. 37 Sticks of Green Mountain Stick Salve. Default decree of condemnation and destruction. (F. & D. No. 42075. Sample No. 22021–D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On March 30, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 sticks of Green Mountain Stick Salve at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about June 26, 1937, from Roulette, Pa., by Mrs. A. H. Westfall, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of the article showed that it consisted essentially of rosin, wax, and a small proportion of copper chloride.

The article was alleged to be misbranded in that the following statements appearing in the label falsely and fraudulently represented the curative or therapeutic effect of the article, since it contained no ingredient or combination of ingredients capable of producting the effects claimed: "Highly recommended for pleurisy rheumatism lumbago * * * boils blood-poison and all infections. * * * For boils and sores."

On May 24, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28980. Adulteration and misbranding of Mar-Vo Antiseptic Bandage. U. S. v. 176 Packages of Mar-Vo Antiseptic Bandage. (F. & D. No. 42033. Sample No. 9232–D.)

This product was represented to be sterilized antiseptic bandage, but was unsterile and possessed no antiseptic properties.

On March 23, 1938, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 176 packages of Mar-Vo Antiseptic Bandage at New Orleans, La., alleging that the article had been shipped in interstate commerce on or about February 21, 1938, from

Chicago, Ill., by the MacBean Manufacturing Co., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold, namely, on the carton "Antiseptic Bandage" and in a circular "Mar-Vo is Sterilized," since it was neither antiseptic nor sterile.

Misbranding was alleged in that the statements on the label, "Antiseptic Bandage," and in a circular, "Mar-Vo is sterilized and treated with an antiseptic in the process of sterilization," were false and misleading when applied to an article that was neither antiseptic nor sterile.

On April 20, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28981. Adulteration and misbranding of gauze bandage. U. S. v. 99 Packages of Gauze Bandage. Default decree of condemnation and destruction. (F. & D. No. 42029. Sample No. 13973–D.)

This product was represented to be sterile but was contaminated with viable micro-organisms.

On March 23, 1938, the United States attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 packages of gauze bandage at Providence, R. I., alleging that the article, consigned on February 23, 1938, had been shipped in interstate commerce from Philadelphia, Pa., by Approved Distributors, Inc., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, namely, on the carton, "Sterilized After Packaging," since it was not sterile but was contaminated with viable micro-organisms.

It was alleged to be misbranded in that the statements on the package, "Approved Products * * * Gauze Bandage Sterilized After Packaging," were false and misleading.

On April 26, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28982. Misbranding of Exanthum Oil. U. S. v. William H. Trentlage. Plea of nolo contendere. Fine, $100. (F. & D. No. 40762. Sample No. 19918–C.)

The label of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On February 23, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William H. Trentlage, Elgin, Ill., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 7, 1937, from the State of Illinois into the State of Wisconsin of a quantity of Exanthum Oil which was misbranded. The article was labeled in part: "Exanthum Oil Prepared by William H. Trentlage * * * Elgin, Ill."

Analysis showed that the article was a pale-yellow oily liquid containing fixed oils resembling olive oil and croton oil.

The article was alleged to be misbranded in that the statements appearing on the labels and in a circular enclosed with it falsely and fraudulently represented its curative and therapeutic effectiveness as a treatment for sinus trouble, quinsy, infected tonsils, appendicitis, toothache, rheumatism, lame back, pleurisy pains, stiff neck, sore chest from cold, sore throat, kidney trouble, rheumatism in its various forms, such as sciatica, muscular and inflammatory, neuralgia, pleurisy, lumbago, gout, pains in the chest caused by a cold, cramps in muscles, throat troubles such as infected tonsils, tonsillitis, quinsy, arthritis, and nervous headache, inflamed eyes, burning and aching eyes, pain in the side, cramps in the calves of the legs, asthma, knotted joints, sprains, and stiff joints and pain in the the head; to take the poison out of the system; to aid in the relief of such symptoms as pain, swelling, and immobility; to beneficially aid in the increase of blood in the affected area; to bring a greater amount of nourishment to the affected parts; to increase the leucocytic action; to destroy bacteria and to relieve toxicity; to relieve many of the distressing symptoms of atrophic, hy-

pertrophic, and infectious arthritis, arthritis deformans, oesteoarthritis, lumbago, sciatica, bursitis, myositis, acute articular rheumatism, myalgia and allied rheumatoid conditions; to aid in the relief of the painful, distressing symptoms of quinsy, sore throat, pleuritic pains, neuralgias, and chest pains caused by colds; and its effectiveness as a treatment for ailments of the spinal column.

On May 3, 1938, a plea of nolo contendere having been entered by the defendant, the court imposed a fine of $100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28983. Adulteration and misbranding of Goody's Headache Powder. U. S. v. Goody's Inc., and A. Thad Lewallen. Pleas of nolo contendere. Fines, $100. (F. & D. No. 40779. Sample No. 44240–C.)

This product was adulterated because of a deficiency of acetanilid, and was misbranded because it was falsely represented as being absolutely safe and reliable and as containing no narcotic drugs.

On February 24, 1938, the United States attorney for the Middle District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Goody's, Inc., and A. Thad Lewallen, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act on or about May 5, 1937, from the State of North Carolina into the State of South Carolina of a quantity of Goody's Headache Powder which was adulterated and misbranded. The article was labeled in part: "Prepared by Goody's Inc."

It was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, since each of the powders was represented to contain 4 grains of acetanilid; whereas each of the powders contained less than the quantity represented, namely, not more than 3.13 grains of acetanilid.

The article was alleged to be misbranded in that the statements, "Goody's are absolutely safe and reliable and can be taken with complete assurance that they contain no * * * narcotic drugs in any form," borne on the label, were false and misleading in that they represented that it was absolutely safe and reliable and contained no narcotic drugs in any form; whereas, it was not absolutely safe and reliable since it did contain narcotic drugs.

On May 4, 1938, pleas of nolo contendere were entered and the court imposed fines in the total amount of $100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28984. Misbranding of Rozel Douche Powder. U. S. v. 4 Dozen Cans of Rozel Douche Powder. Default decree of condemnation and destruction. (F. & D. No. 42378. Sample No. 21508–D.)

The labeling of this product bore false and fraudulent representations regarding its curative or therapeutic effects and false and misleading representations regarding its germicidal properties.

On May 12, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four dozen cans of Rozel Douche Powder at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about January 3, 1938, by Rozel Laboratories from Chicago, Ill., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the cans contained a powder consisting essentially of boric acid, sodium chloride, ammonia, alum, and small amounts of phenol and menthol; and a cone consisting essentially of sodium bicarbonate and tartaric acid with small amounts of phenol and menthol. Bacteriological examination of the cone showed that it did not possess germicidal properties.

The article was alleged to be misbranded in that the following statements in a circular contained in the package which referred to the said cone, were false and misleading when applied to an article that possessed no germicidal properties: "Germicide * * * The germicidal power in Rozel Effervescent Cones is indisputable. * * * the antiseptic used in Rozel Effervescent Cones * * * its germ killing action. The minute Rozel Effervescent Cones come in contact with the fluids of the vagina they deposit their germ killing deodorant ingredients into the folds pockets and convolutions of the tissue. This offers a continuous cleansing and germ killing action over a period of several hours." Misbranding was alleged further in that the following statements borne on the can label and appearing in the said circular, regarding the curative or therapeutic effects of the article, were false and fraudulent: (Can

label) "For Inflammation * * * For Feminine Hygiene * * * For inflammations, * * * leucorrhea"; (circular) "Prophylactic * * * A boon to marriage happiness. Rozel Effervescent Cones is a modern scientific liberator of marriage worries and anxieties. It aids in the happiness of both husband and wife during their marriage relationship. Rozel Effervescent Cones is your protection against all types of social diseases and your insurance of health and happiness. It is a reliable protection for the male when used by the female as a prophylactic. * * * Rozel Effervescent Cones is recommended by physicians all over the country as the antiseptic used in Rozel Effervescent Cones has been used freely by gynecologists in their prescriptions for inflamed conditions of the vaginal tract for many years * * * Rozel Effervescent Cones are harmless and can be used without the slightest fear as they are non-caustic and will do much to prevent the development of all too common feminine ailments * * * A marvelous combination for Health and Happiness when Rozel Douche Powder is used in conjunction with Rozel Effervescent Cones. * * * Good for inflammation, * * * minor hemorrages."

On June 13, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28985. Misbranding of milk of magnesia. U. S. v. 120 Bottles and 108 Bottles of Milk of Magnesia. Default decrees of condemnation and destruction. (F. & D. Nos. 42082, 42083. Sample Nos. 10405–D, 10409–D.)

This product was short of the declared volume.

On or about April 12, 1938, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 120 bottles of milk of magnesia at De Land, Fla., and 108 bottles of the product at Jacksonville, Fla., alleging that the article had been shipped in interstate commerce, in part on or about February 24 and in part on or about March 12, 1938, by the Certified Pharmacal Co. from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statements "8 Fluid Ounces" and "6 Fluid Ounces," borne on the bottle labels, were false and misleading since the bottles did not contain the amount declared but did contain a less amount.

On May 26, 1938, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28986. Misbranding of aspirin. U. S. v. 291 Packages of Aspirin. Default decree of condemnation and destruction. (F. & D. No. 41818. Sample No. 9154–D.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On February 24, 1938, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 291 packages [retail tins] of aspirin tablets in display cartons at Dothan, Ala., alleging that the article had been shipped in interstate commerce on or about September 8, 1937, by Penslar Co., Inc., from Detroit, Mich., and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements regarding its curative or therapeutic effects, borne on the display carton, were false and fraudulent: "Lumbago, Rheumatism, Sciatica, Toothache and Earache."

On May 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28987. Misbranding of Aimotone. U. S. v. Anastoasios G. Fagras (Aimotone Chemical Co.). Pleas of guilty. Fines, $150 and $5. (F. & D. Nos. 40749, 40755. Sample Nos. 34737–C, 41282–C.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On February 15, 1938, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court two informations against Anastoasios G. Fagras, trading as Aimotone Chemical

Co., Colorado Springs, Colo., alleging shipment by the said defendant in violation of the Food and Drugs Act as amended, on or about May 27 and June 30, 1937, from the State of Colorado into the States of Kansas and Louisiana of quantities of Aimotone which was misbranded. The article was labeled in part: "Aimotone * * * Prepared by Aimotone Chemical Co. Colorado Springs, Colorado."

Analysis of a sample of the article showed that it consisted essentially of extracts of plant drugs, including a laxative drug and an alkaloid-bearing drug, alcohol, and water.

The article was alleged to be misbranded in that the following statements borne on the label, regarding its curative and therapeutic effects, "A Splendid Cleanser and Blood Purifier" and "Directions * * * in exceptional cases of sluggish liver, the dose may be increased or decreased," were false and fraudulent since they represented that it was capable of so affecting the blood as to eliminate from it whatever caused it to be in other than a condition of purity, and to cause a sluggish liver to be activated and to function normally.

On April 11, 1938, pleas of guilty were entered by the defendant, and he was sentenced to pay fines of $150 and $5.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28988. Misbranding of Liberty Blood Tonic, National Kidney Preparation, National Pain Relief, Liberty Castoria, Liberty Rheumatic Elixir, Liberty Croup and Pneumonia Salve, National Skin Salve and Cherokee Iron Tonic. U. S. v. Francis M. Millsaps (National Medicine Co.). Plea of guilty. Fine of $200 on count 1, and nominal fines on remaining counts. (F. & D. No. 39836. Sample Nos. 21562–C to 21566–C, incl., 21568–C, 21569–C, 35315–C.)

The labeling of these products bore false and fraudulent curative and therapeutic claims and that of certain products bore false and misleading representations regarding their composition. The labeling of the Rheumatic Elixir bore no statement of the quantity of alcohol contained therein.

On December 2, 1937, the United States attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Francis M. Millsaps, trading as National Medicine Co., at Nashville, Tenn., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about May 18 and June 9, 1937, from the State of Tennessee into the States of Texas and Arkansas, of quantities of the above-named proprietary remedies that were misbranded. The articles were labeled in part: "Manufactured by National Medicine Co. Distributed by Liberty Medicine Co. [or similar statements]."

Analyses of samples of the articles showed that the Liberty Blood Tonic consisted essentially of extracts of plant drugs, including a laxative and an alkaloid-bearing drug, compounds of iron, sodium benzoate (1.5 grams per 100 cubic centimeters), alcohol (7.2 percent by volume), sugar, and water; the National Kidney Preparation consisted essentially of extracts of plant drugs, potassium acetate (2.6 grams per 100 cubic centimeters), sodium benzoate (1.4 grams per 100 cubic centimeters), alcohol (8.13 percent by volume), sugar, and water; the National Pain Relief consisted essentially of extracts of plant drugs, including capsicum and ginger, a small proportion of an ammonium compound, camphor, chloroform (not more than 0.85 minim per fluid ounce), alcohol (4.2 percent by volume), glycerin, and water; the Liberty Castoria consisted essentially of extracts of plant drugs, including a laxative drug, Rochelle salt (1.0 gram per 100 cubic centimeters), sodium bicarbonate (1.5 grams per 100 cubic centimeters), sugar, alcohol (0.93 percent by volume), and water flavored with oil of wintergreen and oil of anise; the Liberty Rheumatic Elixir consisted essentially of sodium salicylate (6.4 grams per 100 cubic centimeters), a small proportion of sodium benzoate, alcohol (3.2 percent by volume), sugar, and water; the Liberty Croup and Pneumonia Salve consisted essentially of small proportions of volatile oils, including oil of pine, eucalyptol, and menthol, incorporated in a petrolatum base; the National Skin Salve consisted essentially of small proportions of volatile oils, betanaphthol, green soap, and a balsam incorporated in a petrolatum base; and the Cherokee Iron Tonic consisted essentially of small proportions of compounds of iron, quinine and phosphoric acid, extracts of plant drugs, including sanguinaria, glycerin, alcohol, and water.

The articles were alleged to be misbranded in that statements in the labeling regarding their curative and therapeutic effectiveness falsely and fraudulently represented that they were capable: (Blood Tonic) Of producing a tonic effect on the blood, of strengthening and rehabilitating the human physical system when

in a weakened and run-down condition and of aiding the organs of the human body in eliminating toxic poisons; (Kidney Preparation) of use as a medicament for diseases and disorders of the kidneys and bladder, of acting remedially when administered in the treatment of backache, bearing-down pains, and congestion of the kidneys, gravel, lumbago and urinal disorders and diseases generally, of producing a healing effect when used in the treatment of tonsillitis and rheumatism, of serving the purposes of a medicine with regard to weak back, bearing-down pains of the hips and nervousness, of acting as a sedative tonic to the pelvic organs, of removing the cause of scant flow of the urine and too frequent action of the kidneys and bladder, of producing and maintaining a better condition of health and, possibly, of averting and preventing troublesome diseases generally; (Pain Relief) of affording relief from pain, of curing dysentery, diarrhea, flux, summer complaint, pains in stomach and bowels, fluttering of heart, shortness of breath, etc., and of causing better results in the treatment of the aforesaid several conditions when used in conjunction with Liberty Liver Powder; (Liberty Castoria) of use as a medicament for dizziness, disorders of the stomach and bowels, feverishness, worms, foul breath, etc., due to costiveness, of producing a beneficial effect when used in the treatment of diarrhea, of alleviation of a condition that occasions loss of sleep and wakefulness, of averting or avoiding many forms of diseases, and of maintaining the health of delicate infants because of having been manufactured especially with regard to them; (Rheumatic Elixir) of producing a tonic effect and of alleviating pain when administered in the treatment of rheumatic conditions, of allaying neuralgia of rheumatic origin, of mitigating pains in joints, of affecting tonsillitis, influenza, etc., beneficially to the person afflicted with those diseases, and of causing better results in the treatment of the aforesaid several conditions when taken in conjunction with National Kidney Preparation; (Croup and Pneumonia Salve) of healing and alleviating croup, pneumonia, coughs, sore throat, etc., catarrh, bronchitis, whooping cough, asthma, piles, etc.; (Skin Salve) of use as a medicament for eczema, ringworm, tetter, and parasitic skin affections; (Iron Tonic) of producing a tonic effect on the blood, of use as a medicament for blood disorders generally and of so acting on the liver and stomach as to cause those organs to discharge their functions with normal vigor.

The Blood Tonic, Kidney Preparation, Pain Relief, Castoria, and Rheumatic Elixir were alleged to be misbranded further in that the statement borne on the labels, "From Roots, Herbs, Barks and Berries," was false and misleading since it represented that the active and essential ingredients and substances contained in the articles were wholly of vegetable origin and derived exclusively from roots, herbs, barks, and berries; whereas the articles also contained ingredients and substances of mineral origin and nature.

The Blood Tonic, Kidney Preparation, and Pain Relief were alleged to be misbranded further in that their labels bore the statements, respectively, "Alcohol less than 10%," Alcohol not less than 10%," and "Alcohol not over 7% by volume," which constituted representations that the articles contained approximately the stated amounts of alcohol, and which were false and misleading since the blood tonic contained not more than 7.5 percent, the kidney preparation not more than 8.2 percent, and the pain relief not more than 4.75 percent, of alcohol. The Rheumatic Elixir was alleged to be misbranded further in that it contained alcohol and the package in which it was enclosed failed to bear a statement on the label of the quantity and proportion of alcohol contained therein. The Pain Relief was alleged to be misbranded further in that the label affixed to the container bore the statement, "Chloroform 4 minims in each fluid ounce," which was false and misleading since the article contained not more than 1 minim of chloroform in each fluid ounce.

On March 10, 1938, a plea of guilty was entered by the defendant and he was sentenced to pay a fine of $200 on the first count and a nominal fine on the remaining counts because of the fine imposed on count 1.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28989. Adulteration and misbranding of gauze bandages. U. S. v. 27 Large and 116 Small Packages of Bandages. Default decree of condemnation and destruction. (F. & D. No. 40280. Sample No. 46727–C.)

This article was contaminated with viable micro-organisms.

On September 13, 1937, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 143 packages of bandages at Buffalo, N. Y., alleging that the article had been shipped in interstate

commerce on or about July 7, 1937, by the Porus-Lastic Corporation from Avon, Mass., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Porulastic The improved Bandage with Aseptic Gauze."

It was alleged to be adulterated in that its purity fell below the professed standard under which it was sold, namely on the label, "Aseptic Gauze," since it was not free from viable micro-organisms.

The article was alleged to be misbranded in that the statement "Aseptic Gauze" was false and misleading in that it created the impression that the said article was free from viable micro-organisms; whereas it was not free from viable micro-organisms.

On October 11, 1937, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28990. Misbranding of Quadine. U. S. v. 8 Dozen Cartons of Quadine. Default decree of condemnation and destruction. (F. & D. No. 41557. Sample No. 57542–C.)

The labeling of this product bore false and fraudulent representations regarding its curative or therapeutic effects in the treatment of skin diseases and other external conditions of man and dogs.

On January 31, 1938, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight dozen cartons of Quadine at West Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about November 30, 1937, from Toledo, Ohio, by the Allen Co., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Quadine * * * made only by the Allen Company Toledo, Ohio."

Analysis of the article showed that it consisted of a green oil containing chiefly pine oil and kerosene.

It was alleged to be misbranded in that the following statements, (carton) "'I Don't Have to Scratch Anymore' * * * The Great Skin Conditioner * * * As a Healing Agent for Sores, Wounds, Etc. Unfailing Relief for Ringworm," (circular enclosed in the carton) "Quadine as a useful aid in skin and coat conditioning. * * * It is particularly effective in correcting bad coat conditions. * * * Quadine has saved, comforted and beautified valuable dogs for breeders and owners. * * * kennel protection. * * * Quadine constitutes an insurance * * * While we cannot guarantee that enthusiastic Quadine users always have correctly diagnosed some of the conditions which they have treated with Quadine, our confidence in the standing and intelligence of these people is such that we offer you Quadine for similar purposes * * * Coat Conditioning Reasons for lack of hair growth and luster are many. * * * Dandruff is often a cause. * * * Quadine tends to restore proper action by dissolving wax or soapy particles. Quadine will be found a useful aid in treatment of external causes of poor skin or coat. Any normally healthy dog should have a beautiful, glossy coat of hair if sprayed with Quadine weekly. * * * Cropping tails and Broken Or Bleeding Tails. After cropping tail or ears apply Quadine with absorbent cotton. Do not bandage. Users have found Quadine remarkably effective on broken tails of Great Danes by simply soaking the tail in Quadine. Do Not Bandage. Wounds, Bites, Scratches, Spray or apply with cloth on to affected parts. Quadine aids healing * * * Frequency of application should be regulated by seriousness of case. Users comment on the absence of scars when Quadine-treated wounds heal. * * * Eczema, Skin Diseases, Sores, Ulcers. It is not possible here to list or to define all the skin diseases and sores that may affect dogs, nor to state truthfully that Quadine or any other remedy will be of aid in the treatment of all of them. We say only that Quadine users have reported satisfactory and in many cases amazing results in a great variety of skin affections, which may or may not have been properly diagnosed by the user. If your dog has a similar bad skin condition try Quadine, giving repeated treatments on and around the areas which are visibly affected. If the bad condition persists see your veterinary. * * * Quadine aids in restoring natural hair luster. * * * Quadine aids in producing animals with beautiful, lustrous pelts. Write for further details. For Human Use * * * for external application on many types of sores, fever blisters, cold sores, * * * wounds, ulcers, dog bites, * * * sore gums, trench mouth, * * * For treatment of dandruff scales apply Quadine to scalp before retiring.

* * * For callouses apply night and morning until callous starts to peel. (In about three to five days.) In treatment of * * * Ringworm infection (Barber's Itch) apply Quadine freely to affected areas," were statements regarding its curative or therapeutic effects, and were false and fraudulent, since it contained no ingredient or combination of ingredients capable of producing the effects claimed.

The article was alleged to be misbranded also in violation of the Insecticide Act of 1910, as set forth in notice of judgment No. 1631 published under that act.

On April 18, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28991. Adulteration and misbranding of turpentine. U. S. v. Frank F. Lefkoff (Authorized Brands). Plea of guilty. Fine, $25. (F. & D. No. 39491. Sample Nos. 13394–C, 15892–C, 16195–C.)

This product was represented to be pure gum spirits of turpentine but consisted of steamed-distilled wood turpentine.

On June 19, 1937, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Frank F. Lefkoff, trading under the name of Authorized Brands, at Atlanta, Ga., alleging shipment by said defendant on or about July 29 and October 13 and 30, 1936, from the State of Georgia into the States of Florida, North Carolina, and South Carolina, of quantities of alleged pure gum spirits of turpentine which was adulterated and misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Authorized Brand Pure Gum Spirits Turpentine * * * Packed and Guaranteed by Authorized Brands, Atlanta, Ga."

It was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, i e., spirits of turpentine, but differed from the standard of strength, quality, and purity of spirits of turpentine as determined by the test laid down in said pharmacopoeia official at the time of investigation; that the said standard specified that spirits of turpentine should be "the volatile oil distilled from the oleoresin obtained from *Pinus palustris* Miller and other species of *Pinus* (Fam. Pinaceae) which yield exclusively turpene oils"; and that it was not such product but was steamed-distilled wood turpentine obtained in whole or in part by steam distillation of pine wood.

The article was alleged to be misbranded in that the statement "Pure Gum Spirits Turpentine," borne on the bottles, was false and misleading since it represented that the article was gum spirits of turpentine; whereas it was not gum spirits of turpentine but was steam-distilled wood turpentine. It was alleged to be misbranded further in that it was an imitation of and was offered for sale under the name of another article, gum spirits of turpentine.

On October 2, 1937, a plea of guilty having been entered by the defendant, the court imposed a fine of $25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28992. Misbranding of valium. U. S. v. 25 Bottles of Valium. Default decree of condemnation and destruction. (F. & D. No. 41904. Sample No. 13911–D.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in its labeling. It was misbranded further because it was represented as complying with all laws, including all food and drug laws; whereas it did not comply with the Federal Food and Drugs Act.

On March 8, 1938, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 bottles of Valium at Portland, Maine, alleging that the article had been shipped in interstate commerce on or about November 20 and December 7, 1937, from Waltham, Mass., by Clematis Laboratories, and charging misbranding in violation of the Food and Drugs Act as amended. Analysis of a sample of the article showed that it consisted essentially of tablets containing calcium sulphide with a red sugar coating.

The article was alleged to be misbranded in that statements contained in a circular within the package, on the carton, and on the bottle label falsely and fraudulently represented its curative and therapeutic effectiveness in the treatment of varicose veins, varicose ulcers, and hemorrhoids (piles). It was alleged to be misbranded further in that the following statements appearing

in the said circular were false and misleading when applied to an article of the composition disclosed by analysis: "All Information and statements contained in this folder comply with every law that constitutes true advertising. Valium is a formula, the ingredients of which comply with pure food and drug laws as they exist today."

On March 21, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28993. Misbranding of Orosepto. U. S. v. 135 Bottles of Orosepto. Default decree of condemnation and destruction. (F. & D. No. 41999. Sample No. 8500–D.)

The labeling of this product contained false and fraudulent representations regarding its curative and therapeutic effectiveness.

On March 18, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 135 bottles of Orosepto at Detroit, Mich., alleging that the article had been shipped in interstate commerce on or about October 28, 1937, by Great Lakes Laboratories, from Cleveland, Ohio, and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Orosepto * * * Knox Chemical Co., New York."

Analysis showed that the article consisted essentially of water, alcohol, and small proportions of zinc chloride, saccharin, formaldehyde, menthol, oil of cinnamon, and red coloring matter.

The article was alleged to be misbranded in that the statement borne on the label, regarding its curative or therapeutic effect, "For Bleeding Gums, Pyorrhea," was false and fraudulent.

On May 4, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28994. Adulteration and misbranding of Epsom salts. U. S. v. 6,800 Pounds of Epsom Salts. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 41993. Sample No. 2805–D.)

This product was sold under a name recognized in the United States Pharmacopoeia but differed from the standard established by that authority, since it contained not more than 97.48 percent of anhydrous magnesium sulphate; whereas the pharmacopoeia requires that Epsom salts contain not less than 99.5 percent of anhydrous magnesium sulphate.

On March 21, 1938, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 6,800 pounds of Epsom salts at Denver, Colo., consigned by Wyoming Chemicals, Inc., alleging that the article had been shipped in interstate commerce on or about March 7, 1938, from Medicine Bow, Wyo., and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized by the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in said pharmacopoeia; and its own standard of strength, quality, and purity was not stated on the container.

It was alleged to be misbranded in that it was offered for sale under the name of another article, namely, "Epsom Salts U. S. P.," whereas it was not Epsom salts U. S. P.

On May 3, 1938, no claimant having appeared, judgment of condemnation was entered, and the product was ordered delivered to a charitable institution to be used for purposes other than medicinal.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28995. Misbranding of McDonald's Crystalene. U. S. v. 52 Bottles of McDonald's Crystalene and 52 Sample Envelopes of McDonald's Crystalene Laxative Pills. Default decree of condemnation and destruction. (F. & D. No. 41455. Sample No. 48459–C.)

The labeling of these products contained false and fraudulent representations regarding their curative and therapeutic effectiveness.

On January 18, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 52 packages, each containing a bottle of McDonald's Crystalene and one sample envelope of Crystalene Laxative Pills, at Washington, D. C., alleging that the articles had been shipped in interstate commerce on or about September 8, 1936, from Baltimore, Md., by the Crystalene Extracts Co., and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of the product in the bottles showed that it consisted essentially of alcohol, sugar, water, and extracts of plant drugs including nux vomica, licorice, and a laxative plant drug; and that the pills consisted essentially of a laxative plant drug.

The libel alleged that the articles were misbranded in that the bottle label, envelope, and accompanying leaflet bore false and fraudulent representations regarding their effectiveness in the treatment of indigestion, biliousness, dyspepsia, dizziness, dropsy, diabetes, kidney, liver, bladder and blood disorders, tumors, rheumatism, high blood pressure, paralysis, influenza, chills, fevers, malaria, headaches, sudden sickness, and jaundice; and their effectiveness to produce normal action of the bowels, act as a reconstructive, and cleanse the system of poison.

On May 18, 1938, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28996. Misbranding of Linoil. U. S. v. 30 Jars of Linoil. Default decree of condemnation and destruction. (F. & D. No. 40843. Sample No. 48085–C.)

This product was misbranded because of false and fraudulent curative and therapeutic claims in the labeling and because it was labeled to indicate that its active ingredient was linseed oil, which was not the fact.

On November 17, 1937, the United States attorney for the Western District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 jars of Linoil at Lynchburg, Va., consigned by Sutton Laboratories, Inc., of Chapel Hill, N. C., alleging that the article had been shipped in interstate commerce on or about October 9 and October 14, 1937, from the State of North Carolina into the State of Virginia, and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of benzoic and salicylic acids incorporated in an ointment base.

The article was alleged to be misbranded in that the name "Linoil" was false and misleading since it implied that the active ingredient was linseed oil, whereas it consisted essentially of benzoic and salicylic acids. It was alleged to be misbranded further in that the statement "Used for * * * Eczema, Etc." constituted a curative or therapeutic claim for the article that was false and fraudulent.

On June 6, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28997. Misbranding of aspirin. U. S. v. 57 Dozen Tins of Aspirin Tablets. Default decree of condemnation and destruction. (F. & D. No. 41948. Sample No. 9711–D.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On March 14, 1938, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 57 dozen tins of aspirin tablets, packed in cartons each containing 3 dozen tins, at Wilkes-Barre, Pa., alleging that the article had been shipped in interstate commerce on or about February 11, 1938, by American Pharmaceutical Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be misbranded in that the following statements borne on the carton containing 36 tins, regarding its curative or therapeutic effects, were false and fraudulent: "For * * * Toothache, * * * Antiseptic Gargle, For Rheumatism, Sciatica, Lumbago, Pain."

On April 29, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28998. Misbranding of Nonat. U. S. v. Marie Leiblinger (Marie Leiblinger & Co.) and Theodore W. Nosek. Pleas of guilty. Fine, $2 each. (F. & D. No. 40777. Sample Nos. 53421–C, 53422–C.)

The label of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On April 1, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Marie Leiblinger, trading as Marie Leiblinger & Co., at Altadena, Calif., and Theodore W. Nosek, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about March 29 and July 9, 1937, from the State of California into the State of Texas of quantities of Nonat which was misbranded. The article was labeled in part: "Nonat * * * A Medicated Salve * * * Marie Leiblinger and Co., Altadena, Calif."

Analysis of the article showed that it was essentially a lead plaster consisting of turpentine, camphor, wax, resin, and a lead compound.

The article was alleged to be misbranded in that statements regarding its curative and therapeutic effects, appearing in an accompanying circular, falsely and fraudulently represented with respect to both lots that it was effective as a treatment for carbolic acid burns, splinter wounds, aching tooth, rheumatism, sore kidneys, pain in back, poison ivy, sore foot, pain in shoulder, swollen glands, torn finger nails, lung fever, swellings, ingrown nail, growths, sores, running sores, dry sores, ulcers, ankle ailment, sore leg, frost bite, headache, and for all purposes; and that it was effective as a preventive of blood poison and as a relief from pain; and further with respect to one lot, that it was effective as a treatment for the relief of blood poisoning and injury, wounds, sore arm, swelled hand, blistered heel, pain under ribs, cuts, felon, injured knees, boils, and lameness in cows.

On April 11, 1938, pleas of guilty having been entered by the defendants, they were sentenced to pay fines in the total amount of $4.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

28999. Adulteration and misbranding of atropine sulphate tablets; adulteration of fluidextract of ipecac. U. S. v. Barksdale Chemical Co. Uncontested. Judgment of guilty. Fine, $50. (F. & D. No. 39500. Sample Nos. 75668–B, 4997–C.)

The atropine sulphate tablets were sold under a name recognized in the National Formulary and the fluidextract of ipecac was sold under a name recognized in the United States Pharmacopoeia,, but both products differed from the standards laid down therein.

On July 19, 1937, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Barksdale Chemical Co., a corporation, Memphis, Tenn., alleging shipment by said corporation on or about June 15 and December 30, 1936, from the State of Tennessee into the State of Arkansas of quantities of atropine sulphate tablets which were adulterated and misbranded, and fluidextract of ipecac which was adulterated. The articles were labeled in part: "Tablets Atropine Sulphate 1–50 gr. Barksdale Chemical Co."; and "Fluid Extract Ipecac * * * Barksdale Chemical Co., Memphis, Tenn."

The atropine sulphate tablets were alleged to be adulterated in that they were sold under a name recognized in the National Formulary but differed from the standard of strength, quality, and purity as determined by the test laid down in said formulary, official at the time of investigation, since each tablet contained less than 1/50 grain, i. e., not more than 0.0154 grain in the case of one lot, and 0.0153 grain in the case of the other lot, that is to say, 1/65 grain of atropine sulphate equivalent to not more than 77 percent of the amount of atropine sulphate stated on the label; whereas the formulary provides that tablets of atropine sulphate shall contain not less than 92.5 percent of the labeled amount of atropine sulphate for tablets of 0.02 gram and the standard of strength, quality, and purity of the article was not declared on the container thereof. The article was alleged to be adulterated further in that its strength and purity fell below the professed standard and quality under which it was sold, since each of the tablets was represented to contain one-fiftieth of a grain of atropine sulphate; whereas each of the tablets contained less than one-fiftieth of a grain. The article was alleged to be misbranded in that the statement "Tablets Atropine Sulphate 1–50 Gr.," borne on the label, was false and misleading.

The fluidextract of ipecac was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in said pharmacopoeia, official at the time of investigation, since 100 cubic centimeters of the article yielded less than 1.8 grams; i. e., more than 1.60 grams of the ether-soluble alkaloids of ipecac; whereas the said formulary provides that fluidextract of ipecac shall yield from each 100 cubic centimeters not less than 1.8 grams of ether-soluble alkaloids of ipecac, and the standard of strength, quality, and purity of the article was not declared on the container thereof.

On April 29, 1938, the date set for the trial, the trustee of the defendant having announced that the action would not be contested, the United States attorney was granted leave to proceed. The defendant was adjudged guilty and was sentenced to pay a fine of $50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29000. Adulteration and misbranding of Jen-Sal P–T Hormone and Jen-Sal Pituitary Extract. U. S. v. Jensen-Salsbery Laboratories, Inc. Plea of nolo contendere. Fine, $100 and costs. (F. & D. No. 39835. Sample Nos. 41541–C, 41544–C.)

Both of these veterinary products fell below the professed standard under which they were sold. The P–T Hormone fell below the standard laid down in the United States Pharmacopoeia, and its label bore false and fraudulent curative and therapeutic claims.

On February 18, 1938, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Jensen-Salsbery Laboratories, Inc., Kansas, City, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about May 22, 1937, from the State of Missouri into the State of Nebraska of a quantity of Jen-Sal P–T Hormone and Pituitary Extract which were adulterated and misbranded.

The P–T Hormone was alleged to be adulterated in that the article was denominated in a catalog by a name recognized in the United States Pharmacopoeia, eleventh edition, "Parathyroid Extract," and was offered for sale under the said name; that the standard of strength, quality, and purity of parathyroid extract, as determined by the test laid down in the said edition of the pharmacopoeia, which edition was official at the time of investigation, required that 1 cubic centimeter of parathyroid extract should possess a potency equivalent to not less than 80 parathyroid units and not more than 120 parathyroid units, and that each of such units should represent one-hundredth of the amount required to raise the calcium level of 100 cubic centimeters of the blood serum of normal dogs 0.001 gram, within from 16 to 18 hours after administration; and that the said article was without effect on the blood serum of normal dogs when injected in them pursuant to the tests for parathyroid extract laid down in the said edition of the said pharmacopoeia; and that the article differed from the standard of strength, quality, and purity as determined by the said test. It was alleged to be adulterated further in that the statement borne on the label, "A Standardized Aqueous Extract of the active principle or principles of the Parathyroid Glands of the Ox," and the statements set out in the catalog, "Parathyroid Extract P–T Hormone is the standardized aqueous extract of the active principle or principles of the Parathyroid Glands of the ox," were professions of the standard and quality under which the article was sold, i. e., that its standard and quality were those of the extract as prescribed in the United States Pharmacopoeia; whereas the article was not such standardized aqueous extract nor was it parathyroid extract of the standard and quality so stated and prescribed; but was an article whose strength and purity fell below the professed standard and quality under which it was sold.

The article was alleged to be misbranded in that the statements borne on the label, "A Standardized Aqueous Extract of the active principle or principles of the Parathyroid Glands of the Ox and suitable for increasing the Blood Serum Calcium. Dosage: Large animals—10 c. c. intramuscularly. Small animals—½ to 2 c. c. intramuscularly," were representations that it was of the standard and quality of parathyroid extract as determined by the test laid down in the United States Pharmacopoeia and said statements were severally false and misleading. It was alleged to be misbranded further in that the statements, "A Standardized Aqueous Extract of the active principle

or principles of the Parathyroid Glands of the Ox and suitable for relieving Parathyroid Tetany or increasing the Blood. Serum Calcium. Dosage: Large animals—10 c. c. intramuscularly. Small animals—½ to 2 c. c. intramuscularly," were false and fraudulent in that it was not capable of relieving parathyroid tetany or of increasing the blood serum calcium when used or administered in pursuance to the said dosage directions, nor was it so capable when used or administered pursuant to any dosage directions whatever.

The pituitary extract was alleged to be adulterated in that the statement "Pituitary Extract (Triple Strength U. S. P. X)" was a profession of the standard and quality under which the article was sold, i. e., that its potency was thrice that of the solution of pituitary of the standard prescribed in the United States Pharmacopoeia, tenth edition; whereas its potency was not more than 40 percent of the potency of the said solution of the said standard, and its strength and purity fell below the professed standard and quality under which it was sold.

The pituitary extract was alleged to be misbranded in that the statement "Pituitary Extract (Triple Strength U. S. P. X)" borne on the label, was false and misleading.

On April 26, 1938, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of $100 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

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